

S  
352.84  
T6pgh  
2000

# **PERMITTING GUIDE**

*for*

## **HIGHWAY CONSTRUCTION PERMITTING**

**FOR MONTANA**

STATE DOCUMENTS COLLECTION

APR 04 2003

**10<sup>TH</sup> EDITION**

MONTANA STATE LIBRARY  
1515 E. 6th AVE.  
HELENA, MONTANA 59620

**2000 CONSTRUCTION YEAR**

MONTANA DEPARTMENT OF TRANSPORTATION  
CONSTRUCTION BUREAU - 2000

Q.CO.25 KMC WPD



## **NOTE**

**This Guide was originally for use after the project has been let to contract. The Guide has grown to include most of the permitting reports from the preconstruction design phase to the post-construction phase.**

**At the time of the contract letting, the Montana Department of Transportation has secured or applied for most of the permanent construction work permits. The permanent construction work permits pertain to planned work as shown in the contract document.**

**Questions or revisions to this Permitting Guide should be directed to Benjamin Dean, Montana Department of Transportation, Helena, Montana 59620. Phone (406) 444-6395 FAX (406) 444-7297**





# TABLE OF CONTENTS

## A GUIDE TO HIGHWAY CONSTRUCTION PERMITTING IN MONTANA

Note . . . . .	i
Table of Contents . . . . .	iii
Acronyms . . . . .	vii
Guide to Contractor-Secured Permits - Permitting Guide . . . . .	1
Stream Quick Permitting Reference . . . . .	3
Erosion Control Program Flow Chart . . . . .	5
Other Laws and Permits That May Apply Due to Construction Changes . . . . .	7
Montana Stream Preservation Act (124 Temporary Facilities Permit) . . . . .	9
Stream Preservation Act Permit Application . . . . .	11
Stream Preservation Action Minimum Recommended Requirements for Work and Detour Bridges . . . . .	13
Stream Preservation Act Task Force Minimum Requirements for Temporary Facilities . . . . .	15
Short-Term Water Quality Standard for Turbidity . . . . .	19
Application for Short-Term Water Quality Standard for Turbidity Related to Construction . . . . .	21
Montana Pollutant Discharge Elimination System Construction Dewatering General Discharge Permit (Short Form C) . . . . .	23
Application for Permit to Discharge (Short Form C) . . . . .	25
Supplemental Information Requested for Short Form C . . . . .	27
Supplemental Substance and Concentration Supplemental Information Request . . . . .	31
Supplemental Substance and Concentration for Produced Water Supplemental Information Request . . . . .	33
Indian Reservation Pollutant Discharge Elimination System Construction Dewatering . . . . .	35
EPA General Information Form . . . . .	37
EPA Application for Permit to Discharge Process Wastewater . . . . .	39
Pollutant Discharge Elimination System General Discharge Permits for Storm Water . . . . .	45
EPA Guide to Storm Water Regulations to Montana Tribal Lands . . . . .	51
DEQ-WPB Vegetation Stabilization Criteria for Storm Water . . . . .	53

## Table of Contents - cont'd

DEQ-WPB Construction Discharge Permit for Storm Water Requirements . . . . .	55
DEQ-WPB General Discharge Guidance Document . . . . .	57
Sample MDT Construction MPDES Permit Application and Erosion Control Plan . . . . .	63
MPDES General Permit for Construction Activities Form . . . . .	69
DEQ-WPB Construction Storm Water Erosion Control Plan . . . . .	71
General Requirements . . . . .	79
MPDES General Permit for Mining Activities Form . . . . .	81
MPDES General Permit for Industrial Activities Form . . . . .	85
DEQ General Discharge Permit . . . . .	89
DEQ Notice of Termination . . . . .	105
EPA Storm Water General Permit . . . . .	107
EPA Notice of Intent Form . . . . .	157
EPA Notice of Termination Form . . . . .	159
U.S. Fish and Wildlife Services Threatened and Endangered Species for Montana . . . . .	161
Corps of Engineers - Clean Water Act Section 10 and 404 Permits . . . . .	163
Corps of Engineers Applicant Form . . . . .	165
Instructions for Preparing a Department of the Army Permit Application . . . . .	167
Joint Application for Proposed Work in MT Streams, Wetlands, Floodplains & Water Bodies . . . . .	169
Open Cut Mining Act . . . . .	175
Open Cut Mining Operation Responsibilities . . . . .	177
Application for Mined Land Reclamation Permit . . . . .	179
Mined Land Reclamation Permit . . . . .	181
Verification of Noxious Weed Control Plan . . . . .	183
Zoning Compliance Form for Opencut Sand and Gravel Mining . . . . .	185
Land Owner Consent for Reclamation . . . . .	187
Montana Flood Plain Management Act . . . . .	189
Navigable Waterways owned by the State and Administered by DNRC . . . . .	191
List of Navigable Waterways Owned by the State . . . . .	193
Department of Natural Resources Unit Officers . . . . .	199
Montana Land Use License or Easement on Navigable Waters . . . . .	203
Application Form for Licensing Structures and Improvements on Navigable Water Bodies . . . . .	205
Montana Water Use Act . . . . .	207
Criteria Addendum Application for Beneficial Water Use Permit . . . . .	209
Application for Beneficial Water Use Permit . . . . .	211

## Table of Contents - cont'd

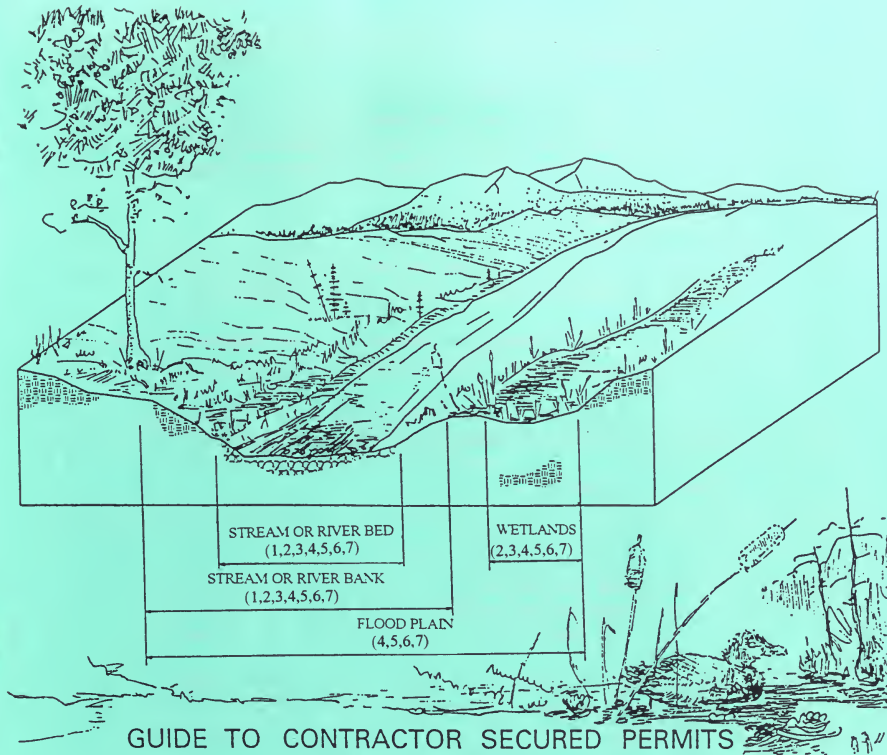
Request for Existing Water Rights List . . . . .	215
Application to Change a Water Right . . . . .	217
Supplemental to Application to Change a Water Right . . . . .	221
Instruction for Application for Right-of-Way on State Lands . . . . .	223
Application for Right-of-Way Easement in State Lands . . . . .	225
Removal of Gravel From State Lands . . . . .	227
Land Use License Application . . . . .	229
Applications to Take or Remove _____ From State Lands . . . . .	231
Construction and Cultural Resources Legal Authorities . . . . .	233
Solid, Hazardous, Petroleum and Asphalt Waste Requirements . . . . .	235
Environmental Definitions . . . . .	237
Environmental Control Detail Drawings Definitions . . . . .	239
Erosion Control Detail Drawings . . . . .	245



## ACRONYMS

COE	Corps of Engineers
DEQ	Department of Environmental Quality
EPA	Environmental Protection Agency
EPM	Engineering Project Manager
FWP	Fish, Wildlife and Parks
MPDES	Montana Pollution Discharge Elimination System
NPDES	National Pollution Discharge Elimination System
NOI	Notice of Intent
NOT	Notice of Termination
SPA	Stream Preservation Act
USDA	United States Department of Agriculture
USDI	United States Department of Interior
WPB	Water Protection Bureau





## GUIDE TO CONTRACTOR SECURED PERMITS PERMITTING GUIDE

Using the diagram above determine if construction affects or intrudes on any of the areas. The numbers in the diagram refer to the required permits listed below and described on the following pages:

1. Montana Stream Preservation Act (124-Temporary Facilities Request).
2. Short-Term Water Quality Standard for Turbidity (318 Authorization).
3. Construction Dewatering General Discharge Permit (Short Form C).
4. General Discharge Permits for Storm water.
5. Other laws and permits that may apply depending upon construction changes on the project.

6. On the Flathead Reservation the following Tribal laws apply to the total flood plain:

- a. The Shoreline protection Ordinance, Ordinance 64A (Revised);
- b. The Aquatic Lands Conservation Ordinance, Ordinance 87-A;
- c. The Water Quality Management Ordinance, Ordinance 89B;
- d. The Cultural Resource Protection Ordinance, Ordinance 95.

For further information contact:

Lloyd Jackson, Confederated Salish and Kootenai Tribes Shoreline Protection Office,  
P.O. Box 278, Pablo, Montana 59855 (406) 675-2700, extension 368;

Sandy Spon, Confederated Salish and Kootenai Tribes Tribal Water Quality Program,  
P.O. Box 278, Pablo, Montana 59855 (406) 675-2700, extension 467;

Marcia Cross, Confederated Salish and Kootenai Tribal Cultural Preservation Office,  
P.O. Box 278, Pablo, Montana 59855 (406) 675-2700, extension 574.

7. Fort Peck Indian Reservations.

Contact: Sandra White Eagle  
Fort Peck Assiniboine and Sioux Tribes  
P.O. Box 1027  
Poplar, MT 59255-1027  
Tel: (406) 768-5155



## CONSTRUCTION QUICK-REFERENCE

During the preconstruction phase of the project, it is Environmental Services task to inform the appropriate agencies and obtain the preliminary clearance and permits. The Engineers should ask for and receive copies of the following Preliminary Engineering permits, or a copy of the determination form:

1. 404 or a 404 Section 10 Permit from the Corps of Engineers.
2. 124 SPA Permit from Fish, Wildlife and Parks.
3. Copies of all Tribal permits and project specific documents.

These permits and documents have stipulations and requirements that are required to be followed during construction.

The construction phase of the project requires the prime contractor to obtain and supply a copy to the Engineering Project Manager a copy of the following permits, unless the permits have been waived by Environmental Services during the preconstruction phase.

All areas excluding Indian-owned land on Indian Reservations; permits are required on state, federal or private lands on Indian Reservation.

1. Short-term Water Quality Standard for Turbidity (318 Permit) from DEQ. This permit is required if the activity could or will cause turbidity, total dissolved solids or temperature change in state waters.
2. Montana Pollutant Discharge Elimination System Construction Dewatering General Discharge Permit (Short Form C) from DEQ. This permit is required for anyone discharging by pumping that will return the discharge to state waters.
3. Montana Pollutant Discharge Elimination System General Discharge Permit for State Waters (MPDES) from DEQ. This permit is a co-permit between MDT and the contractor with DEQ. The contractor will receive a final copy from DEQ. The Engineering Project Manager will receive copies by distribution from Environmental Services.
4. Open Cut Mining Permit, required for all new gravel or borrow sources.
5. Land Use License from DNRC for any use by the contractor for staging areas or use of land below the low water mark on navigable waters of the state of Montana.
6. Water Right Permit from DNRC for any point of diversion or use of water, even for a short time.

### STREAM PRESERVATION ACT PERMIT (124 Permit)

In the state of Montana, a Temporary Facilities Permit, issued by the Montana Fish, Wildlife and Parks, is required for any temporary construction facilities, including temporary structures, access or haul roads, special design for work on detour bridges, bridge demolition, and detours required by the contractor to perform the required permanent work. The application for this permit must be sent to the Engineering Project Manager by the contractor. The application shall contain and answer clearly all the questions in Sections 107 and 208 of the Standard Specifications for Road and Bridge Construction. The EPM will send seven (7) copies of the submittal to the Environmental Construction Reviewer who will forward to the appropriate agencies for approval. This Construction Permit is required even if the location of the temporary facility is shown on the plans.

For ALL construction on Indian Reservations, the Engineering Project Manager should contact the appropriate Tribal authorities for permitting on the Reservation. In the case where the Reservation does not have an authorized permitting process, the EPA has the permitting authority. The following permits are required from either the Tribe or EPA:

1. NPDES. The contractor is required to send in a Notice of Intent (NOI), and after completion and revegetation, a Notice of Termination (NOT).
2. Water Use Permit. A Tribal permit and/or a Water Use Permit from EPA, depending on the agreement from EPA and the Tribe.
3. Land Use Permit. For any use by the contractor for staging areas, borrow, or aggregate services.

### VIOLATIONS

The MDT Engineering Project Manager, in accordance with the agreements between the regulatory agencies and the Montana Department of Transportation, will immediately report violation of the Water Quality Act or Stream Protection Act regulations to the MDT Environmental Construction Reviewer in Helena. The MDT Environmental Construction Reviewer and/or the MDT Resource & Permitting Section Supervisor and/or designee, will inform the Department of Fish, Wildlife and Parks-Stream Protection Coordinator (DFWP-SPA) Coordinator and/or DEQ-WPB and other agencies, as appropriate.

Maintenance and/or core drill violations will be reported directly to the MDT Resources & Permitting Section Supervisor, or designee, by the Maintenance or Core Drill Section Supervisor.

# EROSION CONTROL PROGRAM FLOWCHART

LEAD AGENT

PRECONSTRUCTION DESIGN PHASE

SUPPORT AGENTS

## ROAD DESIGN

- Timely completion and as-needed updating of the Erosion Control Plan.
- Preliminary Erosion Control Plan ready prior to the Plan-In-Hand field review to facilitate, including Erosion Control cost items into the contract bid.
- Update the Erosion Control Plan from Plan-In-Hand review comments using changes in the preconstruction plans and Environmental Services' comments.
- Submit Erosion Control Plan by the PMS ready date for a final review by Environmental Services and update as needed.

## CONSULTANT DESIGN

- Consultant Design will be the lead agent if the Erosion Control Plan is developed by a consultant and responsible for the items above.

## CONSTRUCTION BUREAU

- Participates in Final Plan-in-Hand Reviews and makes changes in plans and Specials if requested by Road Design or Environmental Services.
- Best Management Practices design and installation as per agreements with the regulatory agencies.
- Evaluates and proposes changes to the Erosion Control Work Plan and the detailed drawings.

## RIGHT-OF-WAY BUREAU

- Projects requiring an Erosion Control Plan and permit will need text added to their construction easements to allow for BMP maintenance, replacement, and removal after construction is completed.

## ENVIRONMENTAL SERVICES

- Best Management Practice design parameters, design guidance of the Erosion Control Plan development. Review and final review of the Erosion Control Plan before submission to MDEQ-WQD, in accordance with the regulatory agency mandates.
- Monitor and evaluate the effectiveness of BMP's for revision and improvement of the MDT highway construction standard Erosion Control workplan and detailed drawings.
- Update workplan and drawings on a yearly or as-needed basis.
- Participate in conflict resolution and coordination of solutions with regulatory agencies.
- Permit application and the Erosion Control Plan submitted to MDEQ-WQD a minimum of thirty (30) days prior to contract letting.

CONSTRUCTION PHASE (AFTER BIDLETING)

## DISTRICT CONSTRUCTION

- Advise the contractor on the requirements and parameters of the permit and Erosion Control Plan and oversee contractor's compliance.
- Coordinate the contractor's efforts and timing with respect to the Erosion Control Plan implementation.
- In case of violation or conflict, contact the Construction Bureau Environment Reviewer for inspection or plan revisions.

## CONSTRUCTION BUREAU

- During the construction phase, monitor the program, consulting field personnel as to BMP placement. Document plan implementation and effectiveness and assuring compliance with the approved Erosion Control Plan. Revise the Erosion Control Plan as necessary.
- Interface with regulatory agencies for conflict resolution and coordinate with interested parties for a satisfactory solution.
- Permit annual costs and tracking of those costs through permit termination

## ENVIRONMENTAL SERVICES

- Use construction review reports to revise and improve the BMP effectiveness for design improvements.
- Participate in conflict resolution and coordination of solutions with regulatory agencies if requested by the Construction Bureau

POST-CONSTRUCTION PHASE (CONSTRUCTION COMPLETED & CERTIFICATE OF COMPLETION ISSUED)

## DISTRICT MAINTENANCE

- Post-construction performance of inspections and BMP maintenance, repair and removal.
- BMP maintenance problems or sites that exceed normal maintenance practice and/or will potentially inflict excessive mitigation costs will be nominated for inclusion in Districtwide Erosion Control projects instead of being paid for out of Maintenance's budget.
- Remove temporary erosion controls when protect SWP is terminated by DEQ.
- The permit and its annual fee, maintenance, and termination will be the responsibility of the county that county-nominated projects were construction in from project completion to permit termination.

## DISTRICT CONSTRUCTION

- Provide to the appropriate maintenance personnel and county agencies with copies of the permit and Erosion Control Plan.

## CONSTRUCTION BUREAU

- Provide guidance on Erosion Control Plan inspection procedures, inspection cycles, BMP specifications, maintenance and removal requirements.
- Arrange project termination inspection.
- Evaluate projects on-site for vegetative concerns.
- Recommend maintenance and corrective action required for MDES Permit termination.
- Nominate permits for termination with BMP removal following permit termination (typically).
- Advise Districts of termination and the requirements.
- Participate in conflict resolution and coordination of solutions with regulatory agencies.
- Construction Bureau coordinates with District Construction Engineers and District Administrators to monitor the vegetative cover requirements.

## ENVIRONMENTAL SERVICES

- Evaluates review reports for addition to maintenance and vegetation contracts.
- Participates in conflict resolution and coordinates with regulatory agencies.
- Participates in field reviews if requested by Construction Bureau.
- Evaluates projects having vegetative problems related to erosion control as requested by the Construction Bureau.

STORM WATER PERMIT TERMINATED & BMP REMOVAL



## **OTHER LAWS AND PERMITS THAT MAY APPLY DEPENDING ON CONSTRUCTION CHANGES**

### **Notification**

When proposed construction activities encroach further than the plans and permits authorize into a stream or wetland area, the Project Manager will review the changes with the District Construction Supervisor.

The District Construction Supervisor will coordinate the necessary permitting activities with the Construction Environmental Reviewer and Environmental Services. The revised permits must be received in writing by the Project Manager and approved by the appropriate agencies before the proposed construction activity commences.

### **Activities Requiring Authorization**

- Additional fill in wetlands, rivers, and stream channel areas.
- Changes in alignment not shown on plans.
- Changes in wetland replacement area in either location, size or design.
- Changes in stream channel alignment.
- Any other activity not specifically addressed in the plans or permits previously issued.

### **Type of Action Required**

The MDT Construction Environmental Reviewer and MDT Environmental Services will assist the District Construction Supervisor and Project Managers with permit revisions and any necessary environmental assessments.

### **General Permit Guide**

For your information, a general permit guide has been prepared which shows the agencies that can be affected by construction. Copies of applicable laws and administrative rules are available from the Construction Environmental Reviewer and Environmental Services.



# AGENCY PERMIT GUIDE

(You may need to contact one or more of the following agencies to determine the permits necessary for your project)

LAWS	ACTIVITY											
	WORK IN OR ON STREAM CHANNELS OR BANKS				DISCHARGING WATER INTO LIVE STREAM				WATER USE OR DIVERSION			
	FED LAND	STATE LAND	PRIV LAND	IND RES	FED LAND	STATE LAND	PRIV LAND	IND RES	FED LAND	STATE LAND	PRIV LAND	IND RES
Coal & Uranium Reclamation	7,9,11	5A,7	7	16,17	--	5A	--	--	--	5A	--	--
Open Cut Mining	7,9,11	5A,7	7	16,17	--	5A	--	--	--	5A	--	--
Metal Mine Reclamation	7,9,11	5A,7	7	16,17	--	5A	--	--	--	5A	--	--
*General Mining Law	9,11,6	5A	6	16,17	6,9,11	5A,6	6	16,17	9,11,16	5A,16	16	15,16,17
Water Pollution Control	6	5A,6	6	16,17	6	5A,6	6	16,17	6	5A,6	6	16,17
Water Rights	10	5A,10	10	16,17,10	10	5A,10	10	10	5,15,10	5,5A,10	5,10	5,15,10,16,17
Natural Streambed & Land Preservation "310"	1,4,9,11	1,4,5A	1,4	16,17	--	5A	--	--	1,4,9,11	1,4,5A	1,4	1,4,17
Stream Protection "124"	4,9	4,5A	4	4,16,17	--	5A	--	--	4,9	4,5A	--	13,16,17
Clean Water Act Section 404	13	5A,13	13	13,16,17	--	5A	--	--	13	5A,13	13	13,16
Floodplain & Floodway Management	5	2,5,5A	2,5	5,17	--	5A	--	--	5	2,5,5A	2,5	17
Lake Shore Protection	2	2,5A	2	17	--	5A	--	--	2	2,5A	2	17
*Wetlands Floodplain	9,11,13	10,13,5A	10,13	10,17	9,11	5A,10	10	10,16,17	9,11,13	5A,10,13	10,13	10,13,17
Local Zoning Laws	--	2,3,5A	2,3	2,3,17	--	2,3,5A	2,3	2,3,17	--	2,3,5A	2,3	2,3,17
State & Federal Environmental Act	5,9,11,16	5,5A,10,16	5,10,16	5,10,16,17	5,6,9,11,16	5,5A,6,10,16	5,6,10,16	--	5,9,11,16	5,5A,10,16	5,10,16	16,17
State & Federal Archaeologic & Historic	8,9,11,12,13	4,5A,8,13	8,12	1,5A,8,10	8,9,11,12	4,5A,8	8	8,17	8,9,11,12,13	4,5A,7,8,13	8,13	8,13,17
*FERC Regulations	--	5A	--	--	--	5A	--	--	9,11,14	5A	--	--
*River & Harbor Act	13	5A,13	13	13,17	--	5A	--	--	13	5A,13	13	13,17
Storm Water Runoff Act	4,6	4,5A,6	4,6	4,16,17	6	5A,6	6	16,17	6	5A,6	6	16,17
Navigable Rivers & Streams	5A	5A	5A	5A	5A	5A	5A	5A	5A	5A	5A	5A

\*Federal Laws

\*\*Agencies involved (contact agency or organization owning or administering land if multiples are listed)

## Local

- Conservation Districts
- County Commissioners
- City
- Tribal Environmental Authority

## State of Montana

- Montana Fish, Wildlife & Parks
- Department of Natural Resources & Conservation - Water Resources Division
- Dept. of National Resource & Conservation, Trust Land Management Division
- Department of Environmental Quality - Water Protection Bureau
- Department of Environmental Quality - Open Cut Mining Act
- Montana Historical Preservation Office

## Federal

- USDA, Forest Service
- USDA, Natural Resources Conservation Services
- USDI, Bureau of Land Management
- USDI, Fish & Wildlife Service
- US Army Corps of Engineers
- Federal Energy Regulation Commission
- Agency Administering Federal Land Environmental Protection Agency

**MONTANA STREAM PRESERVATION ACT  
(SPA)**

**Temporary Facilities Request**

**Who Must Apply**

The contractor must submit a Temporary Facility Request to the Engineering Project Manager in accordance with Sections 107 and 208 of the Standard Specifications for Road and Bridge Construction.

**Activities Requiring a Permit**

Any temporary construction facilities for temporary structures, access or haul roads, special designs, for work or detour bridges, bridge demolition, detours, or other temporary facilities which may affect the bed or banks of any stream or river drainage, but necessary to complete the project requires a SPA Permit.

**Purpose of the Law**

To protect and preserve fish and wildlife resources in their natural existing state.

**Who Administers the Law**

The Montana Fish, Wildlife & Parks (MFWP).

**Application Procedure/Time Table**

The contractor shall submit seven (7) copies of the contractors construction plan for temporary facilities to the MDT Engineering Project Manager at least forty (40) days prior to commencing construction. The plan must cover temporary structures, access roads, detour bridges, temporary foundations, special designs or other construction facilities and activities which may affect a stream or wetland. The plan and the proposed procedures, shall be supplemented by cross sections, detailed drawings, narrative descriptions, and other information sufficient to accurately describe the facility. Facilities requiring structural design must be designed and sealed by a licensed professional engineer. The Engineering Project Manager will forward the plans to the MDT Construction Environmental Reviewer. The MDT Construction Review Section will review the submittal for compliance with environmental, structural and other specifications. The MDT Construction Environmental Reviewer will submit the plan and supporting information [accompanied by the Department of Fish, Wildlife and Parks' (FWP) 124 SPA form] to the FWP and associated agencies.

Within thirty (30) working days of receipt of the plan by FWP, FWP will furnish MDT written notice of approval, conditional approval, denial and/or recommended changes. MDT's EPM will notify the Contractor of the approval or recommended revisions required. The Contractor shall revise and resubmit the plan to the Project Manager. Temporary facilities shall not be constructed until the temporary facility permit is approved in writing by FWP and received by the Construction Environmental Review Section. The Temporary Facilities Permit will with FWP's Stipulations be forwarded to the District and EPM for implementation.

The MDT Project Manager will monitor the project to ensure compliance with the Memorandum of Understanding, Fisheries Task Force, and the SPA Permit. The MDT Project Manager will immediately report violations of the Water Quality Act or Stream Protection Act regulations to the MDT Environmental Construction Reviewer.

The Contractor is responsible for acquiring all other permits required by law or regulation.





FWP Use Only

Date Permit Issued \_\_\_\_\_

Water Code \_\_\_\_\_

Appl. No. \_\_\_\_\_

# STREAM PRESERVATION ACT PERMIT APPLICATION

"Notice of Construction"

(Please Print or Type)

Address: (see reverse side)

To: MONTANA DEPARTMENT OF FISH, WILDLIFE & PARKS

Region: \_\_\_\_\_ Attn: Fish Manager

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## SPONSORING AGENCY:

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Official in Charge: \_\_\_\_\_

Title: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

PROJECT IDENTIFICATION: Project Name: \_\_\_\_\_

Control No.: \_\_\_\_\_ Project No.: \_\_\_\_\_ Waterbody: \_\_\_\_\_

Location: Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_ County: \_\_\_\_\_

Location to Nearest Town: \_\_\_\_\_

Project Features: \_\_\_\_\_ Bridge \_\_\_\_\_ Culvert \_\_\_\_\_ Other \_\_\_\_\_

\_\_\_\_\_ Work Bridge and \_\_\_\_\_ Dredging \_\_\_\_\_

Removal \_\_\_\_\_ Hydraulic Structure \_\_\_\_\_

\_\_\_\_\_ Bridge Demolition \_\_\_\_\_ Channel Change \_\_\_\_\_

\_\_\_\_\_ Core Drill \_\_\_\_\_ Bank Stabilization \_\_\_\_\_

Project Scheduling: Contract Letting \_\_\_\_/\_\_\_\_/\_\_\_\_

Construction Period \_\_\_\_/\_\_\_\_/\_\_\_\_ to \_\_\_\_/\_\_\_\_/\_\_\_\_

Allow sixty (60) days for application processing. A set of preliminary plans or sketches of the proposed project must accompany this application. (NOTE: Department of Transportation-sponsored projects require two sets of plans sent with this form to Helena DFWP address.)

\_\_\_\_\_ Plans \_\_\_\_\_ Sketches \_\_\_\_\_ Other \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Distribution: White/Yellow -- Region Pink -- Applicant

## REGIONAL FWP OFFICES

**Region 1 -- Kalispell**  
Attn: Fish Manager  
490 North Meridan Road  
Kalispell, MT 59901  
752-5501

**Region 2 -- Missoula**  
Attn: Fish Manager  
3201 Spurgin Road  
Missoula, MT 59801  
542-5500

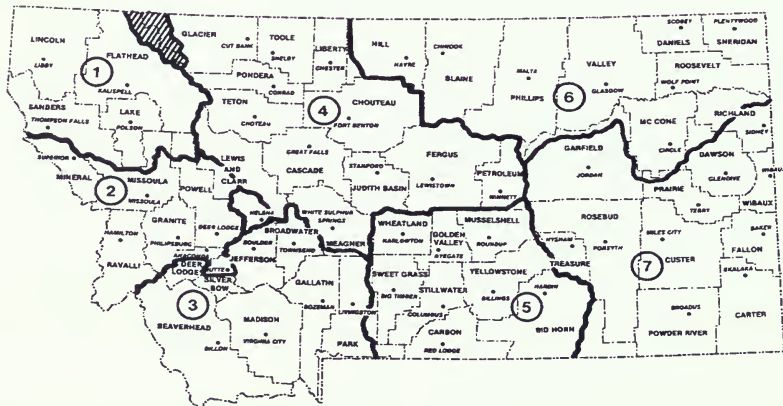
**Region 3 -- Bozeman**  
Attn: Fish Manager  
1400 South 19th  
Bozeman, MT 59715  
994-4042

**Region 4 -- Great Falls**  
Attn: Fish Manager  
P.O. Box 6609  
4600 Giant Springs Road  
Great Falls, MT 59406  
454-5840

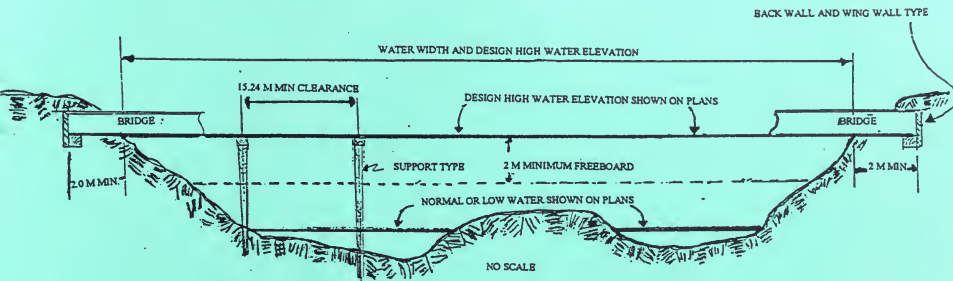
**Region 5 -- Billings**  
Attn: Fish Manager  
2300 Lake Elmo Drive  
Billings, MT 59105  
247-2940

**Region 6 -- Glasgow**  
Attn: Fish Manager  
RR 1, Box 4210  
Glasgow, MT 59230  
228-3700

**Region 7 -- Miles City**  
Attn: Fish Manager  
RR 1, Box 2004  
Miles City, MT 59301  
232-0900



# STREAM PRESERVATION ACT MINIMUM RECOMMENDED REQUIREMENTS FOR WORK AND DETOUR BRIDGES



## NOTES:

- No temporary fill shall be placed below the design high-water elevation shown on the plans.
- Minimum elevation for the bottom of the bridge girders shall be the design high water elevation.
- Bridge length shall extend a minimum of 2 meters back from the design high water elevation.
- All piling for temporary supports shall be orientated parallel to the flow of the stream.
- The contractor shall not begin work bridge constructions until the navigation control plan has been approved.
- The Work Bridge shall have a minimum of two (2) M of free board. The bridge shall be removed if the water rises to a point where there is less than the minimum of two (2) M of free board.
- All required permits must be applied for and approved before bridge construction can begin.
- A minimum of 15.24 M of unobstructed span length shall be maintained between temporary bridge supports on all streams or rivers that are floatable.
- The end bents of the bridge shall have back walls and wing walls to contain any loose or disturbed material.
- A detailed erosion control plan for bridge ends and bridge access roads must be submitted and approved before work begins.
- All supports for the bridge shall be removed completely as the bridge superstructure is being removed.
- All detour structures will have plans and calculations stamped and signed by a Professional Engineer.



**STREAM PRESERVATION ACT**  
**MINIMUM PERMIT APPLICATION REQUIREMENTS**

**Detour, Haul Road or Ford Facilities Construction**  
**Adjacent to Streams or Ephemeral Drainages**

**General Provisions**

Determine if the detour or haul road being constructed needs a bridge, culvert or ford.

Submit the following information for all installations:

- A. A topographic map or sketch showing the features, elevations and location of the proposed facility.
- B. The location to the nearest town and the Range, Township and Section of the requested facility.
- C. Anticipated time of year and length of time the facility will be in place.
- D. Anticipated average water flow during the time facility is in place.
- E. Describe the method of installation and removal and the re-contouring of banks. Include methods of keeping construction materials from entering the stream channel or flowing water.

**Ford Construction**

- A. Describe the type of ford to be constructed and material to be used for construction. Justify use of ford.

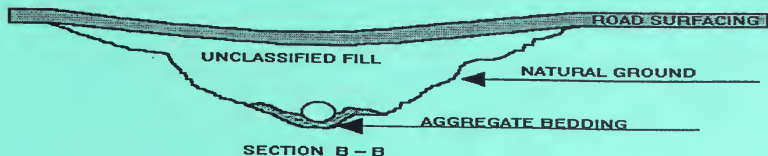
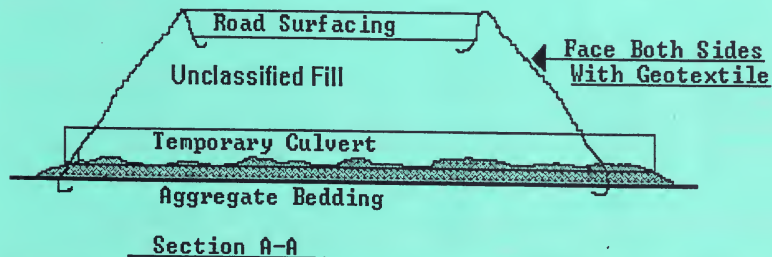
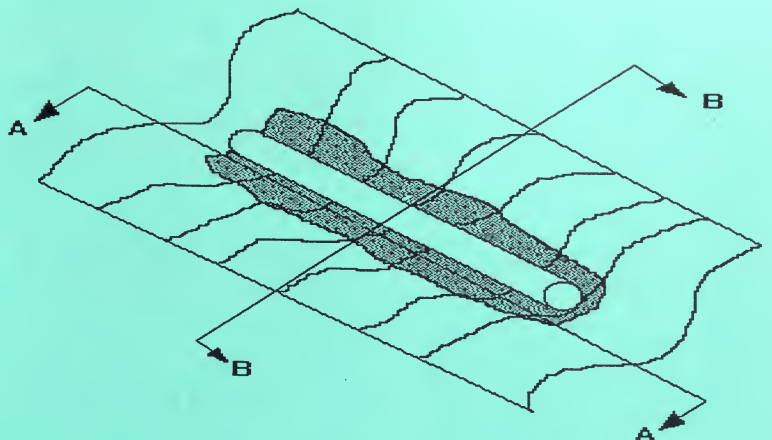
**Bridge Construction**

- A. Design and submit for approval, as per standard specs or special provisions, all plans and calculations for Detour and Work Bridges.
- B. Show the location and height of the anticipated high flow.

## Culvert Installation

- A. Show how culvert design will handle anticipated flow without overtopping the detour.
- B. Design the installation to include the protection of the inslopes on both the upstream and downstream sides. A contour map and site sketch of the facility should include a provision for possible overtopping.
- C. Bed culverts in clean gravel of sufficient depth to provide a smooth bed for the culvert to facilitate removal. The gravel is to extend to the edge of streambank vegetation or at least two feet beyond the water's edge.
- D. Protect the upstream and downstream edges of the embankment with geotextile to prevent erosion of the side slopes.
- E. The attached drawings show a method of installation.

## CULVERT DETAIL DRAWINGS



**NOTE:** Keep roads as low as possible. Use Drain Aggregate for bedding. Class I Erosion Control Geotextile facing on both slopes of roadway.





## **SHORT-TERM WATER QUALITY STANDARDS FOR TURBIDITY (318 Authorization)**

### **Who Must Apply**

Any person, agency, or entity, both public and private, initiating a short-term activity that will cause short-term violations of state surface water quality standards for turbidity.

### **Activities Requiring An Authorization**

Any activity in any state water that will cause unavoidable short-term violations of water quality standards.

### **Purpose of the Law**

- To provide a short-term water quality turbidity standard for construction activities. Activities shall be carried out in accordance with conditions prescribed by the Department of Environmental Quality.
- To protect water quality.
- To minimize sedimentation.

### **Who Administers the Law**

The Department of Environmental Quality (DEQ).

### **Application Procedure/Time Line**

The contractor is required to obtain a 318 Authorization from the Department of Environmental Quality (DEQ). A copy of the application form is in the appendix. A 318 Authorization must be obtained prior to initiating construction activities in and around state waters. Normally the applications are processed within 30 to 60 days.

Copies of all authorizations and/or permits shall be furnished to the MDT Engineering Project Manager by the contractor before commencing activities for which these permits are required.

For more information contact:

Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620-0901  
Tel: (406)444-3080



App. No.: \_\_\_\_\_

Date Rec'd.: \_\_\_\_\_

Date Issued: \_\_\_\_\_

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
APPLICATION FOR SHORT-TERM WATER QUALITY STANDARD SURFACE  
TURBIDITY RELATED FOR CONSTRUCTION ACTIVITY - 75-5-318, MCA**

*Please Print or Type*

1. Name, address, and telephone number of person responsible for the construction activity:

NAME: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

\_\_\_\_\_

TELEPHONE: \_\_\_\_\_

2. Name, address, and telephone number of Contractor or person doing work:

NAME: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

\_\_\_\_\_

TELEPHONE: \_\_\_\_\_

3. Name of Water body: \_\_\_\_\_

4. County of the construction site: \_\_\_\_\_

5. Location and/or legal description: \_\_\_\_\_

\_\_\_\_\_

6. Date activity will commence: \_\_\_\_\_

Date of completion: \_\_\_\_\_

7. *List applications made to other agencies or entities for additional permits or authorization:*

\_\_\_\_\_

\_\_\_\_\_

*(over, please)*

8. Description of all construction activities that may result in stream sedimentation or turbidity:

*Include the type of equipment to be used and specific type of construction to be done (i.e., rip rap, channel changes, excavation, bridge construction, etc.)*

9. Discuss alternatives considered and/or available for minimizing or eliminating sedimentation or turbidity:

10. *Provide any other general information or plans on additional sheets to fully describe project. Provide a location map of the construction site.*

PREPARED BY: \_\_\_\_\_

*Please print or type*

TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

Return to: Department of Environmental Quality  
Water Protection Bureau  
1520 E. Sixth Ave.  
P.O. Box 200901  
Helena, MT 59620-0901

Attn: Jeff Ryan  
Fax: (406) 444-1374  
Tel: (406) 444-4626

DEQ estimates processing time for this application to be 30-60 days.

**MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM  
CONSTRUCTION DEWATERING GENERAL DISCHARGE PERMIT**

**Short Form C Application**

**Who Must Apply**

Any contractor initiating discharge, pumping or dewatering during construction activities which result in a discharge to State Waters.

**Activities Requiring an Authorization**

Any activity where the discharge, pumping or dewatering activity during construction can result in discharge or degradation of water quality to surface waters or ground waters of the state.

**Purpose of the Law**

8. To provide for the permitting of a short-term or permanent discharge of waste water.
- To provide for proper treatment of discharge to protect state waters.
  - To protect water quality.
  - To protect wetlands.
  - To minimize sedimentation.

**Who Administers the Law**

The Department of Environmental Quality

**Application Procedure/Time Line**

The contractor is required to obtain a Construction Dewatering General Permit from the Department of Environmental Quality. A Construction Dewatering General Discharge Permit must be obtained prior to discharge into any state waters which include wetland areas.

The Department of Environmental Quality has thirty (30) days to complete the review process for new individual applications. Normally the applications are processed within fourteen (14) days. There is an initial application fee for each permit and an annual fee for each permit.

Work authorized by a Construction Dewatering - General Discharge Permit (Short Form C) will not be permitted to begin until the Contractor has furnished the Engineering Project Manager with a copy of the authorization letter.

For more information contact:

Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620-0901  
Tel: (406)444-3080



## FOR AGENCY USE

APPLICATION NUMBER									
DATE RECEIVED									

DEPARTMENT OF ENVIRONMENTAL QUALITY  
MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM  
APPLICATION TO DISCHARGE - SHORT FORM C

RETURN TO: Water Protection Bureau  
Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620-0901

Questions? Call (406)444-3080

Please print or type.

1. Name, address, location and telephone number of the individual or company which will have responsibility for the operation:

A. Name: \_\_\_\_\_

B. Mailing Address:

(1) Street Address \_\_\_\_\_

(2) City \_\_\_\_\_ (3) County \_\_\_\_\_

(4) State \_\_\_\_\_ (5) Zip Code \_\_\_\_\_

(6) Telephone Number ( ) - \_\_\_\_\_

C. Location of discharging facility:

- (1) Attach a topographic map extending one mile beyond the property boundaries of the discharge source. Indicate on the map the point of discharge, and drinking water wells listed in public records or otherwise known to the applicant.

a. Section \_\_\_\_\_ b. Township \_\_\_\_\_ c. Range \_\_\_\_\_

(2) City \_\_\_\_\_ (3) County \_\_\_\_\_

(4) State \_\_\_\_\_ (5) Telephone Number \_\_\_\_\_

2. A brief description of the nature of the business \_\_\_\_\_

\_\_\_\_\_

3. A narrative description of the activities which require a discharge of wastewater:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. Proposed handling of waste water: (check one)
- ☐ Complete retention or recycle with no discharge
- ☐ Discharge to municipal sewage system (specify municipality) \_\_\_\_\_
- ☐ Direct Discharge after treatment (specify type of treatment) \_\_\_\_\_
- \_\_\_\_\_
- ☐ Direct discharge with no treatment
5. What is the expected flow rate of your discharge: \_\_\_\_\_ gallons per minute.
6. Discharge is expected to begin on or about: (Month/Day/Year) \_\_\_\_\_
7. Discharge is expected to end on or about: (Month/Day/Year) \_\_\_\_\_
8. (a) **check if applies:**
- ☐ Discharge occurs all year, or;
- (b) **circle the month(s) which discharge occurs:**
- |         |          |           |         |          |          |
|---------|----------|-----------|---------|----------|----------|
| January | February | March     | April   | May      | June     |
| July    | August   | September | October | November | December |
- (c) **circle number of days per week:** 1) 1 2) 2-3 3) 4-5 4) 6-7
9. Circle number of separate discharge points: a) 1 b) 2 c) 3 d) 4 or more
10. Name of receiving water(s): \_\_\_\_\_

Please read carefully before signing.

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

\_\_\_\_\_  
Printed Name of Person Signing

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date Applicant Signed

Section 75-5633 provides that any person who knowingly makes a false statement, representation, or certification on this application shall, upon conviction, be subject to a fine of not more than \$25,000 or by imprisonment for not more than six (6) months, or both.

**DEQ estimates processing time for this application to be 30 days.**



**SUPPLEMENTAL INFORMATION REQUESTED  
SHORT FORM C  
(FOR DISCHARGES FROM CONSTRUCTION ACTIVITIES)**

1. Detailed description of the overall and specific construction activities from which any discharge(s) from a point source may occur.
  
  
  
  
  
  
  
  
  
  
2. Location of the specific construction activities from which any discharge(s) from a point source may occur (locate by township, range, section and ¼ section).
  
  
  
  
  
  
  
  
  
  
3. Name of receiving watercourse.
  
  
  
  
  
  
  
  
  
  
4.
  - a.) Date that the contracts will be signed for the construction activities from which any discharge(s) may occur.
  
  - b.) Anticipated date of initiation of construction activities from which any discharge(s) may occur.
  
  - c.) Anticipated duration of construction activities from which any discharge(s) may occur.
  
  
  
  
  
  
  
  
  
  
5. Discuss in detail any actions (including wastewater control facilities) that are proposed to be taken to minimize the amount of pollutants in the discharge(s) and/or for amount of the discharge.

6. Is a discharge to the receiving watercourse necessary with this project?
  - a.) Is it possible to irrigate the wastewater in the area and thereby eliminate any discharge to state waters?
  - b.) Is it possible to construct a settling pond in such a manner as to eliminate any discharge of wastewater to state waters?
7. Will the discharge(s) contain pollutants other than total suspended solids and turbidity? Explain:
8. Discuss all construction activities that may result in non-point sources of stream sedimentation (e.g., instream work with heavy equipment, dredging, channeling and excavations).

9. Describe the alternatives available for minimizing or eliminating each sediment source mentioned in item No. 8. Also, indicate the method(s) to be used to control sediment sources on this project.



SUPPLEMENTAL INFORMATION REQUESTED

SHORT FORM C

1. Location of all discharge points (locate each discharge point below by Township, Range, Section and ¼ section). Attach topographic map if available.
  
2. Indicate the concentrations of the following substances in your wastewater and in the receiving water. Analyze only those checked.

SUBSTANCE	CONCENTRATION	
	Wastewater	Receiving Water
Ammonia (as N), mb/l		
Total Kjeldahl Nitrogen, mg/l		
Nitrate-Nitrite (as N), mg/l		
Total Phosphorous (as P) , mg/l		
Orthophosphate (as P) , mg/l		
Biochemical Oxygen Demand 5-day BOD) , mg/l		
Chemical Oxygen Demand, mg/l		
Total Suspended Solids, mg/l		
Total Dissolved Solids, mg/l		
Specific Conductance, umhos/cm at 25°C		
pH, Units		
Temperature, °F		
Aluminum, mg/l		
Arsenic, mg/l		
Beryllium, mg/l		
Boron, mg/l		
Cadmium, mg/l		
Chromium, mg/l		
Copper, mg/l		
Iron, mg/l		
Lead, mg/l		

SUBSTANCE	CONCENTRATION	
	Wastewater	Receiving Water
Manganese, mg/l		
Mercury, mg/l		
Nickel, mg/l		
Selenium, mg/l		
Silver, mg/l		
Zinc, mg/l		
Cyanide, mg/l		
Oil and Grease, mg/l		
Phenols, mg/l		
Total Chlorine Residual, mg/l		

3. What is the expected flow rate of your discharge?    Average gpm \_\_\_\_\_  
    Maximum gpm \_\_\_\_\_
4. What is the estimated low flow in the receiving water?    Annual \_\_\_\_\_  
    10-Year \_\_\_\_\_

### SHORT FORM C

- | SUBSTANCE |  | CONCENTRATION<br>Wastewater |
|-----------|--|-----------------------------|
|           | Ammonia (as N), mb/l                           |                             |
|           | Total Kjeldahl Nitrogen, mg/l                  |                             |
| X         | Nitrate-Nitrite (as N), mg/l                   |                             |
|           | Total Phosphorous (as P) , mg/l                |                             |
|           | Orthophosphate (as P) , mg/l                   |                             |
|           | Biochemical Oxygen Demand<br>5-day BOD) , mg/l |                             |
|           | Chemical Oxygen Demand, mg/l                   |                             |
|           | Total Suspended Solids, mg/l                   |                             |
| X         | Total Dissolved Solids, mg/l                   |                             |
| X         | Specific Conductance, umhos/cm at<br>25°C      |                             |
| X         | pH, Units                                      |                             |
|           | Temperature, °F                                |                             |
|           | Aluminum, mg/l                                 |                             |
| X         | Arsenic, mg/l                                  |                             |
|           | Beryllium, mg/l                                |                             |
|           | Boron, mg/l                                    |                             |
|           | Cadmium, mg/l                                  |                             |
|           | Chromium, mg/l                                 |                             |
|           | Copper, mg/l                                   |                             |
|           | Iron, mg/l                                     |                             |
| X         | Lead, mg/l                                     |                             |

SUBSTANCE		CONCENTRATION Wastewater
X	Manganese, mg/l	
	Mercury, mg/l	
	Nickel, mg/l	
	Selenium, mg/l	
	Silver, mg/l	
	Zinc, mg/l	
	Cyanide, mg/l	
X	Oil and Grease, mg/l	
	Phenols, mg/l	
	Total Chlorine Residual, mg/l	
X	Total Alkalinity	
X	Sodium	
X	Sulfate	
X	Calcium	
X	Potassium	
X	Bicarbonate	
X	Chloride	

3. What is the expected flow rate of your discharge? Average gpm \_\_\_\_\_  
Maximum gpm \_\_\_\_\_



# INDIAN RESERVATION POLLUTANT DISCHARGE ELIMINATION SYSTEM CONSTRUCTION DEWATERING

## Who Must Apply

Any contractor initiating discharge, pumping or dewatering during construction activities which result in a discharge into waters of the United States on an Indian Reservation.

## Activities Requiring an Authorization

Any activity where the discharge, pumping or dewatering activity during construction can result in discharge or degradation of water quality to surface waters or ground waters on an Indian Reservation.

## Purpose of the Law

- To provide for the permitting of a short-term or permanent discharge of waste water.
- To provide for proper treatment of discharge to protect waters of the United States.
- To protect water quality.
- To protect wetlands.
- To minimize sedimentation.

## Who Administers the Law

The Environmental Protection Agency.

## Application Procedure/Time

The contractor is required to fill out a General Application Form 1 and the Application Form 2D to obtain a construction dewatering permit from the EPA. A copy of the application is in the appendix. A Construction Dewatering Permit must be obtained prior to discharge into any waters of the United States.

On the Flathead Reservation, a copy of the application must be sent to the following, as well as to the address shown on the application.

Tribal Water Quality Program  
Environmental Protection Division  
P.O. Box 278  
Pablo, MT 59855  
Phone: (406) 657-2700, Ext. 369

EPA Compliance Officer  
Region VIII, Montana Office  
Federal Building  
301 S. Park, Drawer 10096  
Helena, MT 59626-0096

Vern Berry  
Stormwater Program (8EPR-EP)  
EPA Region VIII  
999 - 18<sup>th</sup> Street  
Denver, CO 80202-2466  
Phone: (303) 312-6234

The EPA has sixty (60) days to complete the review process for new individual applications for each permit.

Work authorized by a Construction Dewatering Permit will not be permitted to begin until the Contractor has furnished the Project Manager with a copy of the authorization letter.

For more information contact:

Environmental Protection Agency  
Montana Office  
301 South Park, Drawer 10096  
Helena, MT 59626-0096

FORM <b>1</b> GENERAL		U.S. ENVIRONMENTAL PROTECTION AGENCY <b>GENERAL INFORMATION</b> <i>Consolidated Permits Program</i> <i>(Read the "General Instructions" before starting.)</i>		I. EPA I.D. NUMBER <table border="1"> <tr> <td>8</td><td>7</td><td>6</td><td>5</td><td>4</td><td>3</td><td>2</td><td>1</td><td>P.A.C.</td> </tr> <tr> <td>F</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>C</td> </tr> </table>		8	7	6	5	4	3	2	1	P.A.C.	F								C
8	7	6	5	4	3	2	1	P.A.C.															
F								C															
II. LABEL ITEMS I. I.D. NUMBER  III. FACILITY NAME  V. FACILITY MAILING ADDRESS  VI. FACILITY LOCATION		PLEASE PLACE LABEL IN THIS SPACE		GENERAL INSTRUCTIONS If a preprinted label has been provided, affix it in the designated space. Review the information carefully; if any of it is incorrect, cross through it and enter the correct data in the appropriate fill-in area below. Also, if any of the preprinted data is absent (the area to the left of the label space lists the information that should appear), please provide it in the proper fill-in area(s) below. If the label is complete and correct, you need not complete Items I, III, V, and VI (except V-B which must be completed regardless). Complete all items if no label has been provided. Refer to the instructions for detailed item descriptions and for the legal authorizations under which this data is collected.																			

## II. POLLUTANT CHARACTERISTICS

**INSTRUCTIONS:** Complete A through J to determine whether you need to submit any permit application forms to the EPA. If you answer "yes" to any questions, you must submit this form and the supplemental form listed in the parenthesis following the question. Mark "X" in the box in the third column if the supplemental form is attached. If you answer "no" to each question, you need not submit any of these forms. You may answer "no" if your activity is excluded from permit requirements; see Section C of the instructions. See also, Section D of the instructions for definitions of bold-faced terms.

SPECIFIC QUESTIONS		MARK "X" FORM ATTACHED			SPECIFIC QUESTIONS		MARK "X" FORM ATTACHED		
		YES	NO				YES	NO	
A. Is this facility a publicly owned treatment works which results in a discharge to waters of the U.S.? (FORM 2A)		16	17	18	B. Does or will this facility (either existing or proposed) include a concentrated animal feeding operation or aquatic animal production facility which results in a discharge to waters of the U.S.? (FORM 2B)		19	20	21
C. Is this a facility which currently results in discharges to waters of the U.S. other than those described in A or B above? (FORM 2C)		22	23	24	D. Is this a proposed facility (other than those described in A or B above) which will result in a discharge to waters of the U.S.? (FORM 2D)		25	26	27
E. Does or will this facility treat, store, or dispose of hazardous wastes? (FORM 3)		28	29	30	F. Do you or will you inject at this facility industrial or municipal effluent below the lowest-est stratum containing, within one quarter mile of the well bore, underground sources of drinking water? (FORM 4)		31	32	33
G. Do you or will you inject at this facility any produced water or other fluids which are brought to the surface in connection with conventional oil or natural gas production, inject fluids used for enhanced recovery of oil or natural gas, or inject fluids for storage of liquid hydrocarbons? (FORM 4)		34	35	36	H. Do you or will you inject at this facility fluids for special processes such as mining of sulfur by the Frasch process, solution mining of minerals, in situ combustion of fossil fuel, or recovery of geothermal energy? (FORM 4)		37	38	39
I. Is this facility a proposed stationary source which is one of the 28 industrial categories listed in the instructions and which will potentially emit 100 tons per year of any air pollutant regulated under the Clean Air Act and may affect or be located in an attainment area? (FORM 5)		40	41	42	J. Is this facility a proposed stationary source which is NOT one of the 28 industrial categories listed in the instructions and which will potentially emit 250 tons per year of any air pollutant regulated under the Clean Air Act and may affect or be located in an attainment area? (FORM 5)		43	44	45

## III. NAME OF FACILITY

[illegible]

## IV. FACILITY CONTACT

A. NAME & TITLE (last, first, & title)		B. PHONE (area code & no.)	
1			
2			

## V. FACILITY MAILING ADDRESS

<b>A. STREET OR P.O. BOX</b>									
<b>B. CITY OR TOWN</b>									
<b>C. STATE</b>					<b>D. ZIP CODE</b>				

## VI. FACILITY LOCATION

A. STREET, ROUTE NO. OR OTHER SPECIFIC IDENTIFIER									
6									
5									
4									
3									
2									
1									
B. COUNTY NAME									
10									
9									
8									
7									
6									
5									
4									
3									
2									
1									
C. CITY OR TOWN					D. STATE	E. ZIP CODE	F. COUNTY CODE (if applicable)		
6					1				
5					2				
4					3				
3					4				
2					5				
1					6				
					7				
					8				
					9				
					10				
					11				
					12				
					13				
					14				
					15				
					16				
					17				
					18				
					19				
					20				
					21				
					22				
					23				
					24				
					25				
					26				
					27				
					28				
					29				
					30				
					31				
					32				
					33				
					34				
					35				
					36				
					37				
					38				
					39				
					40				
					41				
					42				
					43				
					44				
					45				
					46				
					47				
					48				
					49				
					50				
					51				
					52				
					53				
					54				
					55				
					56				
					57				
					58				
					59				
					60				
					61				
					62				
					63				
					64				
					65				
					66				
					67				
					68				
					69				
					70				
					71				
					72				
					73				
					74				
					75				
					76				
					77				
					78				
					79				
					80				
					81				
					82				
					83				
					84				
					85				
					86				
					87				
					88				
					89				
					90				
					91				
					92				

# **VII. SIC CODES (4-digit, in order of priority)**

<b>A. FIRST</b>										<b>B. SECOND</b>									
<div> <div>7</div> <div>12 13 14 15</div> </div> <div>(specify)</div>										<div> <div>7</div> <div>12 13 14 15</div> </div> <div>(specify)</div>									
<b>C. THIRD</b>										<b>D. FOURTH</b>									
<div> <div>7</div> <div>12 13 14 15</div> </div> <div>(specify)</div>										<div> <div>7</div> <div>12 13 14 15</div> </div> <div>(specify)</div>									

## **VIII. OPERATOR INFORMATION**

<b>A. NAME</b>										<b>B. Is the name listed in Item VIII-A also the owner?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO									
<div> <div>8</div> <div>12 13 14 15</div> </div>																			
<b>C. STATUS OF OPERATOR</b> (Enter the appropriate letter into the answer box; if "Other", specify.) F = FEDERAL    M = PUBLIC (other than federal or state)    (specify) S = STATE    O = OTHER (specify) P = PRIVATE										<b>D. PHONE</b> (area code & no.) <div> <div> <div>A</div> <div>12 13 14 15</div> </div> <div> <div>16 17 18 19</div> <div>20 21 22 23</div> </div> </div>									
<b>E. STREET OR P.O. BOX</b>																			
<b>F. CITY OR TOWN</b>										<b>G. STATE</b>									
<div> <div>B</div> <div>12 13 14 15</div> </div>										<div> <div> <div>46 47 48 49</div> <div>50 51 52 53</div> </div> </div>									
<b>H. ZIP CODE</b>										<b>IX. INDIAN LAND</b>									
										Is the facility located on Indian lands? <input type="checkbox"/> YES <input type="checkbox"/> NO									

## **X. EXISTING ENVIRONMENTAL PERMITS**

<b>A. NPDES (Discharges to Surface Water)</b>										<b>D. PSD (Air Emissions from Proposed Sources)</b>									
<div> <div> <div>9</div> <div>12 13 14 15</div> </div> <div>N</div> </div>										<div> <div> <div>9</div> <div>12 13 14 15</div> </div> <div>P</div> </div>									
<b>B. UIC (Underground Injection of Fluids)</b>										<b>E. OTHER (specify)</b>									
<div> <div> <div>9</div> <div>12 13 14 15</div> </div> <div>U</div> </div>										<div> <div> <div>9</div> <div>12 13 14 15</div> </div> <div>(specify)</div> </div>									
<b>C. RCRA (Hazardous Wastes)</b>										<b>E. OTHER (specify)</b>									
<div> <div> <div>9</div> <div>12 13 14 15</div> </div> <div>R</div> </div>										<div> <div> <div>9</div> <div>12 13 14 15</div> </div> <div>(specify)</div> </div>									

## **XI. MAP**

Attach to this application a topographic map of the area extending to at least one mile beyond property boundaries. The map must show the outline of the facility, the location of each of its existing and proposed intake and discharge structures, each of its hazardous waste treatment, storage, or disposal facilities, and each well where it injects fluids underground. Include all springs, rivers and other surface water bodies in the map area. See instructions for precise requirements.

## **XII. NATURE OF BUSINESS (provide a brief description)**

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

## **XIII. CERTIFICATION (see instructions)**

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those persons immediately responsible for obtaining the information contained in the application, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

<b>A. NAME &amp; OFFICIAL TITLE (type or print)</b>										<b>B. SIGNATURE</b>										<b>C. DATE SIGNED</b>									

## **COMMENTS FOR OFFICIAL USE ONLY**

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--



- B. Attach a line drawing showing the water flow through the facility. Indicate sources of intake water, operations contributing wastewater to the effluent, and treatment units labeled to correspond to the more detailed descriptions in Item III-A. Construct a water balance on the line drawing by showing average flows between intakes, operations, treatment units, and outfalls. If a water balance cannot be determined (e.g., for certain mining activities), provide a pictorial description of the nature and amount of any sources of water and any collection or treatment measures.

- C. Except for storm runoff, leaks, or spills, will any of the discharges described in item III-A be intermittent or seasonal?

☐ Yes (complete the following table) ☐ No (go to item IV)

Outfall Number	1. Frequency		2. Flow		
	a. Days Per Week (specify average)	b. Months Per Year (specify average)	a. Maximum Daily Flow Rate (in mgd)	b. Maximum Total Volume (specify with units)	c. Duration (in days)

#### IV. Production

If there is an applicable production-based effluent guideline or NSPS, for each outfall list the estimated level of production (projection of actual production level, not design), expressed in the terms and units used in the applicable effluent guideline or NSPS, for each of the first 3 years of operation. If production is likely to vary, you may also submit alternative estimates (attach a separate sheet).

Year	a. Quantity Per Day	b. Units of Measure	c. Operation, Product, Material, etc. (specify)





CONTINUED FROM FRONT		EPA ID Number (copy from Item 1 of Form 1)	
C. Use the space below to list any of the pollutants in Table 2D-3 of the instructions which you know or have reason to believe will be discharged from any outfall. For every pollutant you list, briefly describe the reasons you believe it will be present.			
1. Pollutant		2. Reason for Discharge	
<b>VI. Engineering Report on Wastewater Treatment</b>			
A. If there is any technical evaluation concerning your wastewater treatment, including engineering reports or pilot plant studies, check the appropriate box below.			
<input type="checkbox"/> Report Available <input type="checkbox"/> No Report			
B. Provide the name and location of any existing plant(s) which, to the best of your knowledge, resembles this production facility with respect to production processes, wastewater constituents, or wastewater treatments.			
Name		Location	



**VII. Other Information (Optional)**

Use the space below to expand upon any of the above questions or to bring to the attention of the reviewer any other information you feel should be considered in establishing permit limitations for the proposed facility. Attach additional sheets if necessary.

**VIII. Certification**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

A. Name and Official Title (type or print)

B. Phone No.

C. Signature

D. Date Signed



**POLLUTANT DISCHARGE ELIMINATION SYSTEM  
GENERAL DISCHARGE PERMITS FOR STORM WATER  
ASSOCIATED WITH CONSTRUCTION ACTIVITIES**

**Activities Requiring a Permit**

**In the State of Montana and all state, federal or privately-owned property on Indian Reservations.**

The application and erosion control plans required under the State of Montana General Discharge Permit are due at least thirty (30) working days before construction.

The permit covers construction activities including clearing, grading, and excavating of a total of five (5) or more acres that are a part of a common plan for development or sale or greater than one acre if any part of which is located within one hundred (100) feet of state waters.

The permit may also authorize storm water discharges from support activities related to a construction site (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, etc.) provided:

- 1) the support activity is not a commercial operation serving multiple unrelated construction projects, and does not operate beyond the completion of the construction activity; and
- 2) appropriate controls and measures are identified in the storm water erosion control plan for the discharge from the support activity.
- 3) Copies of the permits are available on the DEQ web site at  
<http://www.deq.state.mt.us/pcd/wpb/stmcom.htm>

**On Indian Reservations**

The EPA requires that construction activities, if these activities, separately or in combination, result in a disturbance of a total of five (5) acres or more, one acre if any part is located within 100 feet of federal waters, must be covered under a Notice of Intent (NOI) request. A NOI needs to be sent in for coverage under the General Construction Activities this permit also covers hot mix plants, asphalt or concrete batch plants and aggregate sources.

**Who Administers the Law**

**For projects on Indian reservations**

The U.S. Environmental Protection Agency is the permitting by authority the EPA requires both MDT and the Contractor to file a notice of intent (NOIs). The original shall be sent to:

Storm Water Notice of Intent  
401 M Street S.W.  
Washington, DC 20460

One copy of the NOI and the Erosion Control Plan shall be sent to:

Environmental Protection Agency  
Compliance Officer  
Region VIII Montana Office  
301 S. Park, Drawer 10096  
Helena, MT 59626-0096  
Phone: (406) 441-1140

Vern Berry - Storm Water Program (8EPR-EP)  
EPA Region VIII  
999 - 18<sup>th</sup> Street  
Denver, CO 80202-2466  
Phone: (303) 312-6234

On the Flathead Reservation, one copy of the application and Erosion Control Plan shall be sent to:

ATTN: Department Head  
Confederated Salish & Kootenai Tribes  
Natural Resources Department  
P.O. Box 278  
Pablo, MT 59855  
Phone: (406) 675-2700, Ext. 467

The NOI must be postmarked and sent to EPA at least two (2) days before the start of construction and the Storm Water Pollution Plan must be completed before the NOI is submitted.

Although the requirements of the EPA's and State's general permits are similar, EPA's general permit does not require that the Storm Water Pollution Prevention Plan (SWPPP) be submitted to EPA unless the permittee is specifically notified to do so.

For permits on the Flathead Reservation, the Confederated Salish and Kootenai Tribes require submitted of the SWPPP 30 working days for approval before construction starts.

It is mandatory that the plans and the compliance documents be at the project site for inspection by MDT, EPA or CS & K Tribes during all construction and maintenance activities. After the project is complete and revegetated sufficiently to eliminate the erosion potential, a Notice of Termination (NOT) must be sent to:

Storm Water Notice of Termination (4203)  
401 M Street S.W.  
Washington, D.C. 20460

EPA Compliance Officer  
Region VIII Montana Office  
301 S. Park, Drawer 10096  
Helena, MT 59626-0096

Vern Berry - Stormwater Program (8EPR-EP)  
EPA Region VIII  
999 - 18th St.  
Denver, CO 80202-2466  
Phone: (303) 312-6234

On the Flathead Reservation, one copy of the NOT shall be sent to:

Confederated Salish and Kootenai Tribes  
Natural Resources Dept. - Dept. Head  
P.O. Box 278  
Pablo, MT 59855  
Phone: (406) 675-2700, Ext. 467

**For all lands within the State of Montana and state, federal or privately-owned property on Indian reservations,** the Department of Environmental Quality (DEQ) is the permitting agency.

DEQ has three (3) separate storm water permits which may be involved on highway projects:

1. General Discharge Permit for Storm Water Associated with Construction Activities
2. General Discharge Permit for Storm Water Associated with Mining and Oil and Gas Activities
3. General Discharge Permit for Storm Water Associated with Industrial Activities

With regards to the General Discharge Permit for storm water associated with construction activities, the Contractor and the Montana Department of Transportation (MDT) are co-permittees. DEQ reviews the Erosion Control Plans and gives Preliminary approval to MDT Environmental Services for MDT's portion of the application package. The preliminary erosion control plans are drafted by MDT and shipped to DEQ. When the project is awarded, it is the Contractor's responsibility to inform DEQ that it was the successful bidder. DEQ will send the Permit application package, including the approved Erosion Control Plan developed by MDT, to the Contractor to complete the contractors portion. The Contractor must complete the form and return it to DEQ. Also either apply for permit coverage for mining activities or develop an ECP amendment for the sources under the construction discharge authorization. The contractor must also obtain permit coverage for industrial activities such as any associated batch plant sites as determined by DEQ. No work can be started until the Contractor receives written authorization from DEQ and a copy is given to the MDT Project Manager.

#### **Purpose of the Law**

To identify areas or activities which may contribute pollutants to state waters via storm water runoff and employ practical methods to reduce such pollutants.

#### **Who Administers the Law**

Outside Indian Reservations and state, federal or privately-owned property within Indian Reservations.  
Montana Department of Environmental Quality

Within Indian Reservations:

U.S. Environmental Protection Agency

**Procedures for Amending the Erosion Control Plans**

Erosion control plans can be amended if the plan proves ineffectual in protecting state water quality. It is preferable to review and revise the MDT section of the ECP during the final plan in hand (PIH). During this review process, the designers and the district can tailor the ECP to the project. After the project is let to contract, the contractor and engineering project manager can revise the ECP before it is resubmitted to DEQ for final approval.

After the written permit authorization letter has been issued by DEQ to the contractor, the plan can be modified by sending the documentation for the requested changes and deletions to the Environmental Construction Reviewer. The requested ECP revisions will be discussed between the Environmental Construction Reviewer and DEQ's MPDES Storm Water Program. Construction activities in the area of the changes and/or deletions using the requested methods can continue during the review process. The ECP is temporarily revised according to the request during the review period. The revision to the ECP will either be accepted as submitted or revised to meet the MPDES requirements. It should be noted that critical areas where sediment or pollution could be introduced to state waters must be protected. The final determination of the acceptability of the revised ECP will be sent to the EPM.

Ultimately, the erosion controls shall be placed and the additional erosion controls marked in the Erosion Control Plan. A copy of the Erosion Control Plan sheet showing the alternative erosion controls shall be sent to the Construction Bureau Environmental Construction reviewer. These changes will be passed on to the designer and Environmental Services for incorporation into the future design and permit application processes. The Construction Bureau Environmental reviewer will evaluate the proposal and send the amendment to DEQ.

**For Projects on Indian Lands Administered by the EPA**

1. Erosion controls shall be placed according to the ECP and at any additional areas identified as requiring additional erosion controls. These new controls shall be recorded on the ECP, signed and dated.
2. On EPA-monitored projects, the changes in the ECP shall be made on the plan and signed and dated. These documents shall be available for review at any time.
3. A copy of the changes shall be sent to the Construction Bureau Environmental Reviewer.



### Time Line

For all lands within the State of Montana, and state, federal or privately-owned lands within Indian Reservations, the Department of Environmental Quality (DEQ) is the Permitting Agency.

DEQ will review the Erosion Control Plans and advise as to acceptance within thirty (30) days from the arrival date to DEQ. If the plan is not acceptable, it will be returned to MDT for revision. This process continues until the plan is approved. Work shall not commence until the approved plan and permit is received by the Contractor and a copy given to the Engineer Project Manager. There is an application and annual fee for each discharge point up to five discharge points. The application fee is \$400.00 per discharge point for a maximum of \$2,000.00 for each project. The annual fees are \$250.00 per discharge point up to a total of five (5) discharge points for a maximum of \$1,250.00. The contractor must pay these fees until he submits a Notice of Termination Form to DEQ and DEQ approves the termination request. On MDT projects the contractor sends the application to DEQ. DEQ then bills MDT quarterly for all fees. Work on the project shall not commence until authorization is received from DEQ and a copy of the approval is given to the MDT Engineering Project Manager.

For all projects on Indian Reservations, the US Environmental Protection Agency is the Permitting Agency

The Notices of Intent must be postmarked two (2) days before the contractor is authorized to proceed. The Contractor is responsible for keeping the ECP up-to-date and documenting all revisions and repair work on the erosion controls.

For projects on the Flathead Indian Reservation a completed erosion control plan and NOI shall be sent to the Confederated Salish and Kootenai Tribes Natural Resources Department and Vern Berry - Storm Water Program (8-EPR-EP) of the EPA thirty (30) working Days prior to the start of construction.

For more information contact:

EPA's Wastewater Homepage at

<http://www.epa.gov/owm/sw/permits-and-forms/index.htm>

Department of Environmental Quality  
1520 E 6th Ave  
P.O. Box 200901  
Helena, MT 59620-0901  
Phone: (406)444-3080

Environmental Protection Agency  
Office of Wastewater Management  
Permits Division  
401 M Street SW  
Washington, D.C. 20460

Environmental Protection Agency  
301 South Park Drawer 10096  
Helena, MT 59626-0096  
Phone: (406)441-1140

Vern Berry - Stormwater Program (8-EPR-EP)  
EPA Region VIII  
999 - 18th St.  
Denver, CO 80202-2466  
Phone: (303) 312-6234

On the Flathead Reservation:

Confederated Salish and Kootenai Tribes  
Natural Resources Dept.  
P.O. Box 278  
Pablo, MT 59855  
Phone: (406) 675-2700, Ext. 467





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VIII, MONTANA OFFICE  
FEDERAL BUILDING, 301 S. PARK, DRAWER 10096  
HELENA, MT 59626-0096

A GUIDE  
TO  
STORMWATER REGULATIONS ON MONTANA TRIBAL LANDS

**Who is Regulated?**

A construction project which clears, grades or excavates 5 acres, or more, of land will be regulated by EPA's General Stormwater Discharge Permit. A project smaller than 5 acres still will be regulated if it is part of a larger development.

**Notice to EPA**

2 days before construction begins, the operator responsible for day-to-day site activities must submit to EPA the 1-page *Notice of Intent* form. Copies of the form must be mailed to:

Stormwater Program  
EPA Region 8-Montana Office  
301 S. Park, Drawer 10096  
Helena, MT 59626

and  
Stormwater Notice of Intent  
401 M St., S.W.  
Washington, DC 20460

**Pollution Prevention Plans**

Each construction project covered by the General Stormwater Discharge Permit must develop and keep available onsite a written *Pollution Prevention Plan*. The plan must describe the construction activity and all stormwater control measures.

**Contacting Tribal Environmental Offices**

The Confederated Salish and Kootenai and the Blackfeet Tribes have developed their own ordinances affecting stormwater. For these and all 7 Indian Reservations, construction projects must contact the individual tribes to determine if local requirements apply. Request a stormwater representative at the following numbers:

Blackfeet Tribe	338-7421
Crow Tribe	638-2601
Ft. Belknap Tribes	353-2205
Ft. Peck Tribes	768-5155
Northern Cheyenne Tribe	477-6503
Rocky Boy Tribes	395-4882
Salish and Kootenai Tribes	675-2700

**Inspections**

EPA, in cooperation with the Tribes, will conduct stormwater site inspections. Inspections are generally unannounced but, once onsite, EPA will introduce itself, invite the site manager to accompany the inspection, request to see the pollution prevention plan, and will discuss with the site manager findings and recommendations.

**Notice of Termination**

A Notice of Termination must be filed once the construction project is complete and vegetation has been established.

For additional information, copies of the EPA forms, or requests for technical assistance, please contact the EPA Region 8-Montana Office at (406) 441-1140.





**DEQ WATER PROTECTION BUREAU  
VEGETATION STABILIZATION CRITERIA  
FOR STORM WATER**

This document shall serve as the basis for determining final stabilization for terminating coverage under the General Discharge Permit for Storm Water Associated with Construction Activity effective May 19, 1997.

**Vegetative Cover**

The revegetation for final stabilization shall form an effective and permanent vegetative cover which prevents soil movement prior to termination under the general permit. The minimum vegetative cover requirement shall be the amount of cover sufficient to prevent accelerated erosion. Accelerated erosion shall be defined as rills of 2 inches deep or more, earth slides, mud flows, sediment deposition, or evidence of concentrated flows of water over bare soils.

Final revegetation stabilization shall be accomplished using seeding mixtures of forbs, grasses, and shrubs that are adapted to the conditions of the site.

The DEQ staff shall take into consideration final stabilization in relation to the percent cover of vegetation at the site prior to disturbance.

**Documentation**

Documentation supporting that the site has been adequately stabilized shall be submitted. The documentation required shall include:

1. Pictures of the present revegetative growth at the construction project shall be required. Pictures of the location where each transect was conducted shall be required. Low level photography shall occur at approximately 90 degrees to the surface in order to properly assess ground cover.
2. A minimum of at least one 100 feet transect of revegetation shall be conducted for every five acres that is cleared, graded or excavated. Additional transects may be required by the department on a site-by-site basis. DEQ shall determine the number of transects required for large construction projects (>20 acres).
3. Transects shall be located in an area(s) that is representative of the revegetation for the whole construction project. Transects shall be conducted by laying out a 100-foot tape. At every foot mark, note whether vegetation, litter/mulch or bare soil is encountered. Determine the average cover by multiplying the number of points where litter or vegetation is encountered by 100%.
4. Areas in which final stabilization may be less than satisfactory due to poor soil or other natural site conditions, shall document the percent cover of the indigenous vegetation with pictures and a transect(s).

**Termination**

Termination of coverage under the general permit will be at the discretion of DEQ professional staff, based on an analysis of erosion potential as described above. A contractor may terminate coverage once they have been released from a construction contract by the owner. The owner is responsible for permit coverage and final stabilization once the contractor has been relieved of the contract requirements for a construction project.



DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER PROTECTION BUREAU

CONSTRUCTION DISCHARGE PERMIT FOR STORM WATER  
January 19, 2000

**A PERMIT IS REQUIRED FOR:**

1. Construction activity resulting in five (5) or more acres of clearing, grading and excavating activities within a common development plan or project, or
2. Construction activity resulting in one (1) acre or more of clearing, grading and excavating activity if any part of that one acre is located within 100 feet of state surface waters.\*

**REQUIREMENTS:**

1. Submit an application form and Erosion Control Plan to the Montana Department of Environmental Quality, Water Protection Bureau, at least thirty (30) days prior to beginning any construction activity (clearing, grading and/or excavating);
2. Install Best Management Practices and implement the approved Erosion Control Plan at the beginning of each phase of construction activity and fully maintain runoff protection features until such time as the site has been successfully stabilized; and
3. Contractors and property owners will be co-permittees for the construction permit. The permit can be terminated by documenting successful revegetation and site stabilization.

**FEES:**

1. Storm water application review fees are assessed at rate of \$400 per common discharge point. Up to five (5) discharge sections (points) may be combined under one General Discharge Permit for a maximum fee total of \$2000. The application fees are determined based on the number of discrete and unique state surface waters that receive construction disturbance runoff. DEQ staff will evaluate the proposed construction project relative to runoff flow patterns to determine whether multiple discharge points can be combined under one common discharge (e.g. \$400 fee) – common discharge being defined as a stream, river or lake (etc.) reach that has similar aquatic or hydrologic characteristics.
2. Annual permit fees are \$250 per discharge section (point) and up to five- (5) discharge sections can be combined. Annual fees are based on the state fiscal year, which runs from July 1 through June 30.

For more information please contact the Water Protection Bureau at (406) 444-3080.

**FINES:**

Failure to obtain permit coverage prior to starting a construction project is a violation of the Montana Water Quality Act—MCA 75-5-605(2)(c). Violators of the act may be assessed a civil penalty of up to \$25,000 per day of documented violation.

\*State surface waters of concern are any flowing or ponded water system that could receive project storm water flow during construction and until such time as site is successfully stabilized. State surface waters include lakes, ponds, marshes, perennial or intermittent rivers and streams, and irrigation or high ground drainage channels. This does not include irrigation or diversion waters where return flow water does not reach state waters (ARM 17.30.1304 (58)).





## DEQ GUIDANCE DOCUMENT

### GENERAL DISCHARGE PERMIT

#### for STORM WATER ASSOCIATED WITH CONSTRUCTION ACTIVITY (NON-HIGHWAY CONSTRUCTION PROJECTS)

March 12, 1999

John W. Herrin

## I. REGULATORY BASIS, DEFINITIONS, AND PERMITTING REQUIREMENTS.

### A. Regulatory Basis.

Storm water runoff and erosion control management for medium to large scale construction projects is a Federally mandated regulatory program for which the State of Montana has developed a Federally approved, state managed regulatory program. The objective is to minimize pollution of surface water resources caused by runoff and erosion created by temporary construction activities.

The storm water discharge permit authority falls under the broader Montana Pollutant Discharge Elimination System (MPDES) which regulates many other waste-water discharge sources administered by the Montana Department of Environmental Quality.

The MPDES General Discharge Permit for Storm Water Associated with Construction Activity (GDPSW-Construction) applies to all areas of the State of Montana except Indian Reservations.

The GDPSW-Construction covers construction activities that are generally expected for normal seasonal construction projects. For these projects the State of Montana has developed this general permit which has been subjected to public review, comment and adopted under the Administrative Rules of Montana (MCA, ARM 17.30.1301 *et seq.*, and ARM 17.30.601 *et seq.*).

For projects that are not covered under this General Discharge permit, the project managers are required to develop a project specific Storm Water Discharge Application and Storm Water Pollution Prevention Plan which would be evaluated on a case by case basis within the DEQ Water Protection Bureau and also subject to public notice and review rules.

### B. Permit Conditions and Definitions.

**Point source discharge of pollutants** is allowed under the permit as long as the discharge does not significantly degrade state waters.

**Discharge of pollutants** means any addition of any pollutant or combination of pollutants to state waters from any point source.

Sediment, petroleum products, fertilizers, hazardous materials, solid or liquid waste, etc. are some of the more common sources of potential **pollutants** associated with construction activities covered under the GDPSW-Construction.

**Storm water** means storm water runoff, snowmelt runoff, and surface runoff and drainage.

**State Waters** means any body of water, irrigation system, or drainage system and applies to surface as well as ground water resources.

A **Point Source** is defined at 40CFR 122.2 as any discernable, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. For storm water, this includes runoff collecting in a sufficient amount to be sampled.

**Non-Point Source** storm runoff is not covered under this program. Non-Point Source runoff is sheet flow runoff which does not collect in the form of concentrated flow.

**Best Management Practices (BMPs)** means schedule of activities, prohibition of practices, maintenance procedure, and other management practices to prevent or reduce the pollution of state waters. BMPs also include treatment requirements, operating procedures, and practices to control construction site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

### **C. Permitting Requirements.**

The Montana GDPSW-Construction permit for storm water discharge is required for any construction project for which significant amounts of pollutants could reach state waters as a result of runoff from construction disturbance and work areas.

A GDPSW-Construction permit is required if:

1. the construction project exceeds 5 acres of total vegetation. This acreage criteria includes project where disturbances are scattered, but which are part of a common project (e.g. major subdivision projects), or
2. the construction project exceeds 1 acre any part of which is within 100 feet of state waters.

A registered professional engineer must prepare erosion control plans and documentation for construction projects which exceed 20 acres total disturbance and/or if project designs call for sizable man-made engineered structure(s) such as detention ponds or diversion structures.

A GDPSW-Construction permit is not required from construction projects which do not meet the above outlined criteria or if the applicant can demonstrate that runoff from their construction project would not reach state waters during a storm event that would be classified, based on site specific or extrapolated meteorological records, as exceeding the average highest intensity storm that likely would affect the site once every 2 years over a 24 hour period.

For GDPSW-Construction permits, the owner(s) of the property and the contractor(s) are both covered under the permit as co-permittees and by signing the application documents are equally responsible for compliance with the general storm water discharge permit or the project specific storm water discharge permit and attendant erosion control plans etc. approved by DEQ.

## **II Outline of Major Points to Consider in Developing A Storm Water Permit Application and Supporting Erosion Control Plan.**

### **A. Construction Storm Water Runoff & Erosion Control Map (GDPSW-Construction, Part III.C.2.a.(3) .**

The GDPSW-Construction requires the applicant to submit to DEQ a detailed and project specific erosion control and runoff management map(s) indicating the layout, designs, management features of the planned construction project including the following specific details (GDPSW-Construction, Part III.C.2.a.(3) :

1. Earthmoving disturbances defining locations of all disturbances, cut & fills slopes.
2. Topsoil salvage and subsoil stockpiles.
3. Runoff impervious structures.
4. Define Existing and Proposed runoff flow patterns and controls (define up-slope, within and down-slope drainage).
5. Define all Best Management Practices (BMPs) erosion control features.
6. Areas where vegetative management practices will be used.
7. Identify state waters. State waters include streams (Ephemeral (----), Intermittent(--)) & Perennial(\_\_\_\_), lakes, ponds, irrigation ditches, and wetlands, etc but exclude unconcentrated runoff areas.



**B. Best Management Practices & Erosion Controls-- Narrative Plan & Commitments(GDP Construction Part III.C.2.b).**

The project specific erosion control plan shall include, where applicable, the following details:

1. Define State Waters and potential impacts from project storm water runoff.
2. Define plan for minimizing vegetative and topsoil impacts.
3. Define plan for topsoil salvage, disturbance area regrading, topsoil replacement, and revegetation (temporary & long-term).
4. Define erosion minimization & runoff management BMPs.
5. Define solid and hazardous waste, and other potential pollution sources management practices.
6. Present storm water runoff calculations and erosion control design assumptions for steep slopes, long linear construction features (e.g. road, pipelines, etc.), and impoundments.
7. Define existing disturbances and vegetative conditions, define what conditions will change during construction, and what condition will be following reclamation.
8. Characterize erosion potential of disturbed soils.

**C. Project Schedule.**

The applicant is required to submit a construction project schedule which defines the timing and phases of the project in enough detail for inspectors, regulators, project managers to track the erosion control/storm water management of the overall project.

**D. Monitoring.**

**1. Erosion and Runoff Monitoring.**

The applicants must develop a project specific storm water runoff (GDP Part III.A.3) and eroded sediment monitoring and remediation plan ( GDP Part II.C.3 & 4).

**2. Inspection of BMPs.**

**During active construction, the applicants are required to conduct runoff inspections and maintenance** -- inspections and maintenance being required whenever the project area development work could have a significant effects on state waters (surface water or ground water) or project area erosion/runoff control features (BMPs) may have been damaged. Specifically the project managers are required to inspect, document and repair damages according to the following general guidelines:

1. at a minimum of once every 7 days.
2. within 24 hours of any runoff generating storm event, or
3. daily inspections/maintenance during prolonged precipitation or snowmelt periods.

**After the construction activity is completed on an area** (landscape is recontoured, topsoil is replaced, and permanent erosion control measures completed), the project managers may propose a less frequent and higher runoff threshold monitoring and inspections. The objective of the monitoring, inspection and reporting permit requirements is assure that the project managers maintain the erosion and runoff management features (BMPs) in good working condition and thereby protect the quality of state waters. For instance, inspections and monitoring requirements can be waved for prolonged periods when the project area soils are largely frozen.

**E. Corrective Actions.**

The applicants must commit to taking corrective actions if storm water runoff and eroded sediment adversely impact state waters. For example the applicants are required to remove, within 24 hours, eroded sediment in excess of 1/2 cubic yard that deposits in downstream drainage. The applicants are

also required to repair, maintain or improve on-site BMPs, within 24 hours of discovery that measurable quantities of sediment left the project area or entered state waters(GDP Part III.A.3).

#### **F. Reporting Requirements.**

The applicants are required to record all inspections(date, time, inspector, observations), corrective actions, changes in the in-field erosion control and BMPs, and impact remediation measures. Storm water impacts (mud and muddy water) shall be carefully documented as well as corrective action taken to repair or improve erosion and storm water control systems.

The applicants are required to make these records available to field inspectors and keep complete records of the project inspections at the nearest field office to the worksite..

The applicants are also required to report any releases of hazardous materials that are in excess of reportable quantities as defined in 40 CFR 110. 40 CFR 117, or 40 CFR 302 to the National Response Center (800-424-8802) and the Montana Water Protection Bureau (406-444-5338). The applicant is then required to submit a storm water discharge assessment report within 7 days of conditions exceeding reportable quantities limits.

If active construction or the disturbance area reclamation efforts extend past one year, then the applicant(s) is/are required to submit an annual inspection report to DEQ's Water Protection Bureau within 30 days of the season ending final inspection.

#### **III. Additional Erosion Control and Storm Water Runoff Impact Mitigation Measures that May Be Considered for Construction Project.**

The project managers should consider incorporating these and other industry accepted erosion control measures into a construction erosion control plan (ECP) in order to minimize storm water runoff impacts:

1. If **soil seeding** is undertaken **outside** of the favorable, locally accepted, **fall or spring seeding window**, then additional measures beyond just seeding must be considered (e.g. upslope berm diversions, supplemental irrigation, slope roughening & ditch basins, organic fiber mulching and fabrics, and improved runoff collection systems).
2. The contractor will **preserve as much existing vegetation as practicable** during all phases of construction, reclamation, and staging work. This includes preserving existing vegetation and minimizing clearing except where construction plans call for clearing and construction. Natural vegetative buffer zones, where ever feasible, should be maximized between disturbance areas and any drainage or state water. Without additional BMPs, a 50 foot wide vegetative buffer strip at a minimum must be maintained between disturbance areas and state water where slopes are less than 33%, and a 100' wide buffer strip shall be maintained for slopes greater than 33%.  
Should the on-site erosion control managers perceive or expect potential pollution as a
3. result of **vehicular tracking of sediment onto public or private roads**-- especially problematic during the wet season periods (generally from November to June)-- the potentially problematic dirt covered high traffic area ( e.g. roadway approaches, parking areas and staging areas) shall be covered with gravel. In addition, all unpaved roads within the project area which will be carrying more than 25 vehicle trips per day shall be graveled.
4. **Fuels stored** at the site shall be placed in bermed areas designed to contain 110% holding capacity of all vessels inside the bermed area. In addition, the contractor is encouraged to place some form of impermeable membrane under all potential fuel spillage areas in order to minimize soil contamination. Fuel storage areas must be located a distance greater than 100 feet from state waters.
5. **Slope roughening** and other erosion control practices (e.g. mulching, hydromulching,

temporary seeding, etc.) should be considered for slopes where soils are moderately or highly erosive (SCS soil classification). As a general rule soils that are moderately or highly erosive, the following general guidelines are recommended for additional bare slope protection (Note: erosion controls must be evaluated on a case by case basis):

- a. All slopes longer than 15 feet with grades exceeding 33 1/3% consider incorporating the following BMPs: upslope diversion berms, stair-step grading, grooving, furrowing, or dozer basins along contour lines, or engineered slope stabilization methods, straw mulch crimping, hydromulch/tacifiers,
  - b. Slopes longer than 50 feet and grades exceeding 15%: slope roughening (e.g. 4" deep furrows on contour) and run-on diversion berming,
  - c. Slopes longer than 100 feet and grades exceeding 8%: slope roughening (e.g. 4" deep furrows on contour) and run-on diversion berming.
6. **Temporary Seeding** is required on all construction slopes that exceed the following general criteria:
- a. will be left exposed for more than 14 days (exclusive of July 1-August 31 & frozen ground conditions),
  - b. will be redisturbed by on-going construction activities,
  - c. are less than 33% average slope steepness.
7. Temporary erosion control BMPs shall be installed prior to disturbing soils on fill slopes. Temporary erosion controls will be installed during construction of cut slopes, ditch bottom protection, and inlet/outlet structure construction.
8. **Permanent erosion control BMPs** shall be installed prior to or in conjunction with the associated earth-moving activities. These BMPs would therefore act as both temporary and permanent erosion control measures.
9. **Upslope diversion systems and downslope sediment/pollutant settlement structures or other BMPs should be installed** if such features would offer runoff and erosion control benefits where bare soil and cut/fill slopes would be subject to concentrated runoff compounded by upslope run-on.
6. **GENERAL EROSION CONTROL & STORM WATER MANAGEMENT REFERENCES.**
- Montana Department of Transportation, 1993, Highway Construction Standard Erosion Control Work Plan (1993)
  - Montana Department of Transportation, Updated Regularly, Standard Specifications and Drawings.
  - Montana Department of Environmental Quality, 1996, Montana Sediment and Erosion Control Manual.
  - Huntingdon Consulting Engineers (MAXIM Technologies), 1992, Best Management Practices for Controlling Storm Water Discharges.





Montana Department  
of Transportation  
ENVIRONMENTAL SERVICES  
An Equal Opportunity Employer

2701 Prospect Ave.  
P.O. Box 201001  
Helena, MT 59620-1001

Marc Racicot, Governor

Date  
Water Protection Bureau

Montana Department Environmental Quality  
Permitting and Compliance Division  
P.O Box 200901  
Helena, MT 59620-0901

PROJECT NAME

Subject:

PROJECT NUMBER  
Control No. CONTROL NUMBER

Enclosed is the permit application to discharge storm water, two copies of the construction plans, topographic map of area, three copies of the erosion control plans, and supporting documentation for the subject project. This project is scheduled to be let to contract on LETTING DATE.

PROJECT DESCRIPTION & CONDITIONS

Please review this package and communicate your comments to this office within thirty (30) days for consideration. If the Erosion Control Plan and MDT's portion of the application package is acceptable to you, please provide us with verification and the endorsed Erosion Control Plans. When the contractor has been selected and the permit is issued, please provide us with a copy of the MPDES Authorization to Discharge for our files and distribution to MDT personnel.

If you have any questions, comments, or concerns on the enclosed, please call Dave Leiteiser at 444-0805.

Joel M. Marshik, P.E., Manager  
Environmental Services

JMM:KMH:DAL:ENV:ero-doc.mrg

Enclosures

cc: DISTRICT ADMINISTRATOR  
DISTRICT CONSTRUCTION ENGR w/attached ECP  
Carl S. Peil, P.E. Preconstruction Engineer  
Robert D. Tholt, P.E. Construction Engineer  
Mark Wissinger, P.E., Supervisor Contract Plans Section  
File





**MONTANA DEPARTMENT OF TRANSPORTATION**

**STORM WATER PERMIT APPLICATION  
AND  
EROSION CONTROL PLAN**

**(PROJECT NAME)  
PROJECT NO.  
CONTROL NUMBER**

**PREPARED BY:  
MONTANA DEPARTMENT OF TRANSPORTATION  
2701 PROSPECT AVENUE  
P.O. BOX 201001  
HELENA, MT 59620-1001**

**DATE**





**PROJECT NUMBER**  
**PROJECT NAME**  
**CONTROL NUMBER**  
**EROSION CONTROL PLAN PERMIT APPLICATION**  
**CONTENTS**

1. MPDES Permit Application
2. Construction Storm Water Erosion Control Plan
3. General Requirements
4. Summary Sheets  
Sheet No. : Typical Sections  
Sheet No. : Summaries  
Sheet No. : Details  
Sheet No. : Construction Plans  
Sheet No. :  
Sheet No. :
5. Plans with Erosion Control Practices located on  
Sheets No.
6. Copy of the USGS Topographic Map for the project area



Application Number: \_\_\_\_\_  
Date Received: \_\_\_\_\_

DEPARTMENT OF ENVIRONMENTAL QUALITY  
MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM  
APPLICATION FOR AUTHORIZATION TO DISCHARGE UNDER THE  
GENERAL PERMIT FOR STORM WATER ASSOCIATED WITH  
CONSTRUCTION ACTIVITY

Return to: Attention: Storm Water Program  
Montana Department of Environmental Quality  
Water Protection Bureau  
PO Box 200901  
Helena, MT 59620-0901

Note that a complete application includes this signed application form, its signed accompanying site-specific erosion control plan, and the correct application fee. The applicant must submit the complete application to the department at least thirty (30) days prior to construction (including clearing).

Please print or type:

1. Owner Name and Address Contractor Name and Address  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Construction Site Address  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If an MDT project, list project number \_\_\_\_\_ and name \_\_\_\_\_

3. Contact Person \_\_\_\_\_ Telephone Number \_\_\_\_\_

4. Describe the nature of the construction activity \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

When is construction planned to start? \_\_\_\_\_ When is construction planned to end? \_\_\_\_\_

5. What is the total area (acres) of the site? \_\_\_\_\_  
What area (acres) will undergo clearing, grading or excavating during the lifespan of project? \_\_\_\_\_

6. Site Location: County \_\_\_\_\_  
Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_ 1/4 Section \_\_\_\_\_

7. Name(s) of receiving water(s): \_\_\_\_\_  
Will storm waters discharge from the project to a municipal storm sewer? No: \_\_\_\_\_ Yes: \_\_\_\_\_  
If treated storm water will be discharged to a municipally owned storm sewer, a letter of authorization from the municipality must accompany this application. (Attach the letter.)

8. Attach a site map and a drainage map (**with drainage patterns indicated**) or a topographic map that includes the location of nearby state waters.
9. Attach a detailed erosion control plan that describes the best management practices that will be used during, and after, construction to control erosion and sedimentation. **The department must approve the erosion control plan before construction activities (including land clearing) take place. This plan shall be submitted along with the application form and application fees at least thirty (30) days before the start of construction.**

I CERTIFY UNDER PENALTY OF THE LAW THAT THIS DOCUMENT AND ALL ATTACHMENTS WERE PREPARED UNDER MY DIRECTION OR SUPERVISION IN ACCORDANCE WITH A SYSTEM DESIGNED TO ASSURE THAT QUALIFIED PERSONNEL PROPERLY GATHER AND EVALUATE THE INFORMATION SUBMITTED. BASED ON MY INQUIRY OF THE PERSON OR PERSONS WHO MANAGE THE SYSTEM, OR THOSE PERSONS DIRECTLY RESPONSIBLE FOR GATHERING THE INFORMATION, THE INFORMATION SUBMITTED IS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE, ACCURATE, AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT FOR KNOWING VIOLATIONS.

\_\_\_\_\_  
Owner's Name (Print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Owner's Signature (Note: Part IV.H.1., page 15 of permit number MTR100000 specifies who must sign here)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor's Name (Print)

\_\_\_\_\_  
Company Name (Print)

\_\_\_\_\_  
Contractor's Signature (Note: Part IV.H.1., page 15 of permit number MTR100000 specifies who must sign here)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

**EROSION CONTROL PLAN**  
for  
**STORM WATER DISCHARGES**  
**ASSOCIATED WITH CONSTRUCTION ACTIVITY**  
(Revised 3/15/99)

**Note:** This site-specific signed erosion control plan must be submitted to the department for approval, along with the signed application and application fees, at least thirty (30) days prior to beginning construction activities (including clearing, grading, excavating).

**A copy of this plan must be kept at the construction site.**

Any plan which requires engineered structures, such as detention ponds or diversion structures, or which would result in soil and vegetative disturbs of 20 acres or more, must be prepared under the direction of and certified by a registered professional engineer.

The erosion control plan shall include at least the following items:

**A. PROJECT TRACKING SUMMARY**

1. General Discharge Permit # MTR \_\_\_\_\_
2. Project Name \_\_\_\_\_  
Project # \_\_\_\_\_  
3. Project Address \_\_\_\_\_  
  
County \_\_\_\_\_  
Township \_\_\_\_\_ Range \_\_\_\_\_ Section(s) \_\_\_\_\_ 1/4 Section(s) \_\_\_\_\_  
GIS Coordinates (if available) \_\_\_\_\_
4. Owner & Contractor Name & Address:
  - a. Owner: \_\_\_\_\_
  - b. Contractor: \_\_\_\_\_

**Part II.C. 2.a. Site & Project Description**

- (1) Describe the overall nature of the construction & soil disturbance activities

Provide a timetable for major construction and earth disturbance activities.

- (2) Total area of the site (acres) \_\_\_\_\_  
Acreage of associated development (e.g. phased development project) \_\_\_\_\_  
Area expected to undergo clearing, excavation, grading \_\_\_\_\_  
*(If total land disturbance > 20 acres, a registered professional engineer shall develop ECP.)*

- (3) Develop Erosion Control Map(s) indicating, as a **minimum**: (check all features shown on map):

- (a) Overview map (e.g., USGS Topographic Map Base with Project Information Plotted on it).

\_\_\_\_\_ project boundaries & limits of disturbances.  
\_\_\_\_\_ define state waters ( e.g. ephemeral, intermittent, perennial streams;  
ponds, lakes, wetlands, springs, 100 year flood-plain etc.)

- (b) ECP BMP Detailed Map.

\_\_\_\_\_ define soil salvage and stockpile (soil & subsoil) areas,  
\_\_\_\_\_ define cut and fill slopes greater than 5' in vertical height,  
\_\_\_\_\_ drainage patterns (upslope, project area & discharges),  
\_\_\_\_\_ approximate slopes anticipated after major grading activities,  
\_\_\_\_\_ location of all erosion control facilities or structures,  
\_\_\_\_\_ vegetative controls (e.g. buffer strips, enhancement areas, outflows),  
\_\_\_\_\_ major impervious structures (e.g. buildings, roads, parking lots, etc.),  
\_\_\_\_\_ map scale and north arrow

Are sand & gravel excavation and/or crushing operations associated with project? ☐Yes ☐No

Are temporary asphalt batch plant operations associated with this project? ☐Yes ☐No

Attach a site map for each borrow pit and asphalt batch plant operation indicating the location of state waters, crushing & asphalt plants, stockpiles, chemical or waste storage areas, and BMP's to control storm water runoff.

- (4) Describe the **nature of the fill material, existing site soils, and their erodability.**

- (5) Describe the location of each outfall and the name and distance to the receiving water to which it discharges. (Note: It is helpful to reviewers to have project areas defined relative to drainage, ponds, ditches, lakes, streams and rivers -- see PART II.C.2.a.(3)(2) maps).

**Part II.C.2.b Controls**

- (1) Describe in detail, plans for topsoil salvage, stockpiling, sub soil and topsoil regrading, EC BMPs, and vegetative controls to minimize soil erosion from all disturbed areas.

- (2) Describe runoff flow, and runoff management practices and structural features to minimize storm water pollution.

- (a) Which of the Following Temporary Stabilization Practices Will Be Used on Project  
(Please indicate on project site map all BMPs checked herein or explain reasoning):

- |  |   |
|--|---|
| <input type="checkbox"/> Slope roughening              | <input type="checkbox"/> Vegetative buffer strips   |
| <input type="checkbox"/> Silt fences                   | <input type="checkbox"/> Straw bale dikes   |
| <input type="checkbox"/> Erosion control blankets/mats | <input type="checkbox"/> Temporary drain diversions   |
| <input type="checkbox"/> Minimizing clearing           | <input type="checkbox"/> Temporary sediment basins/traps                                      |
| <input type="checkbox"/> Mulching                      | <input type="checkbox"/> Temporary seeding  |
| <input type="checkbox"/> Brush barriers                | <input type="checkbox"/> Up slope runoff diversions/controls                                  |
| <input type="checkbox"/> Inlet/Outlet protection       | <input type="checkbox"/> Disturbance area runoff diversions/controls                          |
| <input type="checkbox"/> Water way protection          | <input type="checkbox"/> Ditch runoff flow dispersers (e.g. Level spreaders)/flow inhibitors. |

Other temporary practices:



(b) Permanent and Structural Stabilization Practices:

- |   |  |
|---|--|
| <input type="checkbox"/> permanent seeding      | <input type="checkbox"/> check dams*                   |
| <input type="checkbox"/> retaining walls        | <input type="checkbox"/> drain inlet protection        |
| <input type="checkbox"/> rock outlet protection | <input type="checkbox"/> drainage swales               |
| <input type="checkbox"/> sediment basin & traps | <input type="checkbox"/> earth dikes*                  |
| <input type="checkbox"/> manmade EC structures  | <input type="checkbox"/> grassed waterways             |
| <input type="checkbox"/> sod stabilization      | <input type="checkbox"/> infiltration trenches, basins |
| <input type="checkbox"/> subsurface drains      | <input type="checkbox"/> level spreader                |
| <input type="checkbox"/> terraced slopes        | <input type="checkbox"/> tree and shrub planting       |
| <input type="checkbox"/> pipe slope drains      | <input type="checkbox"/> vegetative buffer strips      |
| <input type="checkbox"/> detention ponds*       | <input type="checkbox"/> containment ponds*            |

**\* Provide the runoff coefficient for large runoff diversion and detention structures.**

(c) Other permanent and structural stabilization practices:

- (3) Vehicle tracking of sediment onto roads: Describe measures that will be used to prevent sediment tracking from the construction site onto roads.

- ☐ graveled access entrance and exit drives and parking areas  
(*required from November - June*)
- ☐ tire wash pad at exit drive

Other measure to prevent sediment tracking:

- (4) When trucking saturated soils from the site, either tight trucks shall be used or loads shall be required to drain until drippage has been reduced to less than 1 gallon per hour before leaving the site.

Will. saturated soils be trucked from the site? ☐ Yes ☐ No

- (5) Provide a schedule of implementation for the minimum control components listed above.

**Part II.C.3.** Visible or measurable erosion which results in sediment leaving the construction site or entering state waters is prohibited. (Refer to Page 10 of general permit MTR100000 for a definition of *visible or measurable erosion*.)

**Part II.C.4.** If any visible or measurable quantities of sediment leave the site because of the failure of the erosion control facilities, the sediment shall be immediately (within 24 hours of discovery) cleaned up and placed back on the site or disposed of in a manner approved by the department. Under no conditions shall the sediment be washed into the storm sewers, drainage ways or state waters.

**Part II.C.5. Waste Disposal:** List disposal methods for the following (write NA where not applicable):

Construction Materials Checklist that could impact state waters (write NA where applicable):

<input type="checkbox"/> Concrete	<input type="checkbox"/> Masonry Blocks	<input type="checkbox"/> Solvents
<input type="checkbox"/> Detergents	<input type="checkbox"/> Metal Studs	<input type="checkbox"/> Roofing Shingles
<input type="checkbox"/> Fertilizers	<input type="checkbox"/> Paints	<input type="checkbox"/> Tar
<input type="checkbox"/> Fuel	<input type="checkbox"/> Pesticides	<input type="checkbox"/> Lumber
<input type="checkbox"/> Petroleum-based Products		
<input type="checkbox"/> Other materials (describe)		

Describe product-specific storage practices to be followed on site for:

Petroleum and Paint Products:

Fertilizers and Pesticides:

Hazardous Materials:

Concrete Truck Wastewater Disposal:

Solid Waste:

Septic Waste:

**Part II.C.6.** Describe man-made and natural measures to control pollutants in storm water discharges after construction operations have been completed:

- \_\_\_\_\_ vegetative waterways and natural landscape
- \_\_\_\_\_ infiltration trenches or basins
- \_\_\_\_\_ storm water detention structures,
- \_\_\_\_\_ wet ponds or man-made wetlands,
- \_\_\_\_\_ storm water containment structures, etc

**Additional Discussion (Please Reference section & add additional pages as necessary):**

## OWNER CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

\_\_\_\_\_  
Property Owner's Name **(Print)**      Owner's Representative **\*(Print Name)**      Title

\_\_\_\_\_  
Property Owner's Representative **\*(Signature)**      Date

\*(Note: Part IV.H.1., page 15 of permit number MTR100000 specifies who must sign here)

## CONTRACTOR CERTIFICATION

I certify under penalty of law that I understand the terms and conditions of the general Montana Pollutant Discharge Elimination System (MPDES) permit that authorizes the storm water discharges associated with construction activity from the construction site identified as part of this certification. Further, by my signature, I understand that I am becoming a co-permittee, along with the owner(s) and other contractors and subcontractors signing such certifications, to the general MPDES permit for the storm water discharges associated with construction activity from the identified site. As a co-permittee, I understand that I, and my company, are legally required under the Clean Water Act, to ensure compliance with the terms and conditions of the storm water erosion control plan developed under the MPDES permit and the terms of the MPDES permit.

\_\_\_\_\_  
Prime Earthmoving Contractor **(Company's Business Name)**

\_\_\_\_\_  
Contractor's Representative\* **(Print)**      Contractor's Rep. **Signature\***      Title

(Note: Part IV.H.1., page 15 of permit number MTR100000 specifies who must sign here)

**(PROJECT NUMBER)**  
**(PROJECT NAME)**  
**CONTROL NUMBER**  
**GENERAL REQUIREMENTS**

The Erosion Control Plan is the basic framework of a strategy to prevent or minimize erosion during construction activities. The following erosion control measures shall be conducted as a general approach or method to all construction activities in order to prevent or minimize erosion. Prior to construction, a detailed Erosion Control Plan complete with maps and drawings shall be submitted for approval to the Montana Department of Environmental Quality (DEQ) Permitting and Compliance Division by Montana Department of Transportation (MDT) Environmental Services. No land clearing or construction activities shall occur until the erosion control plan has been approved. Best Management Practices (BMPs) must be implemented and maintained as specified in the MDT Highway Erosion Control Detail Drawings and comply with all provisions of the storm water discharge permit. These BMPs are not comprehensive and do not supersede MDT Standard Specifications or mandates and requirements specified by other authorized State and Federal agencies.

Reductions or removal of BMPs from the Erosion Control Plans must be requested in writing to the Construction Bureau and approved by the DEQ Permitting and Compliance Division. Increases or addition of BMPs to the Erosion Control Plan to further protect water quality may be implemented as directed by the Engineer. The contractor shall comply with the requirements of the storm water permit. The contractor shall implement the erosion control plan and its general requirements.

Construction sequencing shall be conducted in such a manner to minimize erosion and sedimentation. Clearing and grubbing shall be minimized to the smallest practical area. Whenever possible, vegetative buffers strips shall be maintained between the toe of the fill slope and any water resource to the maximum extent possible. Grading should begin within 72 hours of removing topsoil or pioneering. Culvert installations should begin within 72 hours of clearing, grubbing or grading and must be completed as quickly as practical. If installation delays occur, additional erosion control measures will be required. Special concern must be given to slopes within close proximity to channel changes, embankment protection and culvert installations to assure that sediment is not released in the drainage.

Whenever possible stockpiled materials (topsoil, gravel, etc.) shall be placed a minimum of 30.5 meters (100 feet) from surface waters. Stockpiled materials placed less than 30.5 meters (100 feet) from surface waters shall be protected with BMPs selected by the contractor to prevent release of sediment to the surface water. Hazardous materials (fuel, paint, solvents, glues, asphalt materials, fertilizers, pesticides, etc.) shall be placed a minimum of 30.5 meters (100 feet) from surface waters. Whenever possible, these materials shall be stored in covered shelters where they do not come in contact with storm water. Whenever possible asphalt plant operations shall be located a minimum of 30.5 meters (100 feet) from surface waters. Asphalt plant operations located within 30.5 meters (100 feet) from surface water shall be adequately protected with BMPs selected by the contractor.

Temporary erosion controls BMPs shall be installed prior to disturbing soils when constructing fill slopes and as soil disturbing activities are conducted in the case of cut slope protection, ditch bottom protection, and inlet/outlet protection. Permanent erosion controls specified in the bid documents such as riprap for embankment protection or pipe inlet/outlet protection, or slope drains shall be installed prior to or in conjunction with the associated earth-disturbing activities. This serves as both a temporary and permanent erosion control measure.

Best Management Practices (BMPs) shall be inspected at least once every seven days and within 24 hours of a storm event that results in runoff. BMPs shall be maintained and repaired, as necessary, to remain in compliance with their intended function and capacity as specified in the Erosion Control Plan and all provisions of the storm water discharge permit.

NOTE: The slope Roughening description and parameters of implementation have been changed to the following:

Where Slope Roughening Applies:

All slopes steeper than 3:1 and greater than 1.5 vertical meters (5 feet) require slope roughening. Slope roughening may be used on flatter slopes dependent on grades and proximity to water resources.

Slope Roughening Definition:

Ridges or furrows equal to or greater than 50 mm (2 inches) in height and spaced at 2 times their height or less. Soil surface with horizontal depressions created by operating suitable equipment on the contour, or by leaving in a roughened condition during construction operations.

**ADDITIONAL REQUIREMENTS (IF ANY)**



## FOR AGENCY USE

APPLICATION NUMBER

APPLICATION NUMBER									
DATE RECEIVED									

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
MONTANA POLLUTANT DISCHARGE  
ELIMINATION SYSTEM APPLICATION  
FOR A GENERAL PERMIT TO DISCHARGE STORM WATER  
ASSOCIATED WITH MINING ACTIVITY**

**Return to:** Montana Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620-0901  
Tel: (406) 444-3080

*Please print or type:*

1. Name and Address of Owner/Operator

---



---



---

2. Mine Site Address if Different than No. 1:

---



---



---

3. Contact Person: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_

4. SIC Code: \_\_\_\_\_

5. Describe the nature of the mining activity (active, inactive or abandoned site; commonly mined; adit, pit or shaft; etc.) \_\_\_\_\_

---



---



---

6. Indicate the total area (acres) of the site and the area that will undergo excavation or soil disturbance during the lifespan of the project: \_\_\_\_\_

---



---



---

7. Site Location (Township, Range, Section, ¼ Section): \_\_\_\_\_

Latitude/Longitude (nearest 15 seconds): \_\_\_\_\_

Is there a processing plant located at the site? No \_\_\_\_\_ Yes \_\_\_\_\_ If yes, please list materials and/or products exposed to storm water which may cause pollution: \_\_\_\_\_

---



---



---

Please attach a site map and a topographic map with drainage patterns indicated.



8. Describe the current or planned Best Management Practices (BMPs) to be used at the mine and/or plant to control pollutants to storm water runoff: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Describe the planned Best Management Practice (BMPs) to control pollutants in storm water after mining is completed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Name of receiving water: \_\_\_\_\_  
The number of discharge points for the mine: \_\_\_\_\_  
The expected flow rate of discharge(s) assuming 2-yr./24-hr. event: \_\_\_\_\_  
If new discharge, when is it expected to be on or about (mo/day/yr): \_\_\_\_\_

**I CERTIFY UNDER PENALTY OF LAW THAT THIS DOCUMENT AND ALL ATTACHMENTS WERE PREPARED UNDER MY DIRECTION OR SUPERVISION IN ACCORDANCE WITH A SYSTEM DESIGNED TO ASSURE THAT QUALIFIED PERSONNEL PROPERLY GATHER AND EVALUATE THE INFORMATION SUBMITTED. BASED ON MY INQUIRY OF THE PERSON OR PERSONS WHO MANAGE THE SYSTEM, OR THOSE PERSONS DIRECTLY RESPONSIBLE FOR GATHERING THE INFORMATION, THE INFORMATION SUBMITTED IS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE, ACCURATE, AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT FOR KNOWING VIOLATIONS.**

\_\_\_\_\_  
Name of Owner

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



# SITE MAP

Map Information		Department of Environmental Quality	
TYPE _____		FACILITY	
NUMBER _____		COUNTY	
SCALE _____		DATE	CHECKED
		DRAWN	



APPLICATION NUMBER									
DATE RECEIVED									

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
MONTANA POLLUTANT DISCHARGE  
ELIMINATION SYSTEM APPLICATION  
FOR A GENERAL PERMIT TO DISCHARGE STORM WATER  
ASSOCIATED WITH INDUSTRIAL ACTIVITY**

**Return to:** Montana Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620-0901  
Tel: (406) 444-3080

*Please print or type:*

1. Name and Address of Owner/Operator

---



---



---

2. Mine Site Address if Different than No. 1:

---



---



---

3. Facility Contact Person:

Telephone Number: 

---

4. SIC Code: 

---

 Type of Business: 

---

 Number of Employees: 

---

Types of Industrial Activities at Facility: 

---

Types of Materials Handled and/or Stored Outdoors: 

---

---

5. Other Permits Currently in Force for the Facility: 

---

---

6. Site Location (Township, Range, Section, ¼ Section): 

---

Size of Facility (acres or sq. feet): 

---

 Please attach a site map and a topographic map with drainage patterns indicated.

7. Name of the closest surface water: 

---

Where does storm water discharge to? 

---

\*Municipal Storm Sewer System? No ☐ Yes ☐ Name: 

---

\*Surface Water Body? No ☐ Yes ☐ Name: 

---

\*Other (be specific): 

---

---

8. Has any storm water quality analytical data been collected? No ☐ Yes ☐ (if yes, please attach)

9. Describe any storm water treatment or best management practices (BMPs) in use: 

---

---



---



---

10. The number of discharge points at your facility: \_\_\_\_\_  
The expected flow rate of discharge(s): \_\_\_\_\_ gpm.  
The depth to groundwater at the site: \_\_\_\_\_
11. Briefly describe the various activities which take place at the site which may contribute to the contamination of storm water: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
12. The NPDES industrial storm water regulations (40 CFR) require certification that all storm water outfalls associated with industrial activities have been evaluated for the presence of non-storm water discharges not otherwise covered by an NPDES Permit. Your signature on this application provides that certification. Please describe the method used to evaluate for the presence of non-storm water discharges: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
13. Have any leaks or spills or other instances of storm water contamination occurred at the facility within the last three (3) years? No \_\_\_\_\_ Yes \_\_\_\_\_ (If yes, please explain size, etc.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
14. Please indicate the following items on the attached site map:
- Location of storm water outfalls.
  - Outline of drainage areas served by each outfall.
  - Runoff conveyance structures - storm sewer, ditch, or drainage area.
  - Location of impervious surfaces.
  - Facility buildings and property lines.
  - Areas where activities are, or have been conducted, material stored, or spills have occurred which could affect storm water quality.

**I CERTIFY UNDER PENALTY OF LAW THAT THIS DOCUMENT AND ALL ATTACHMENTS WERE PREPARED UNDER MY DIRECTION OR SUPERVISION IN ACCORDANCE WITH A SYSTEM DESIGNED TO ASSURE THAT QUALIFIED PERSONNEL PROPERLY GATHER AND EVALUATE THE INFORMATION SUBMITTED. BASED ON MY INQUIRY OF THE PERSON OR PERSONS WHO MANAGE THE SYSTEM, OR THOSE PERSONS DIRECTLY RESPONSIBLE FOR GATHERING THE INFORMATION, THE INFORMATION SUBMITTED IS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE, ACCURATE, AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT FOR KNOWING VIOLATIONS.**

\_\_\_\_\_  
Name of Owner/Owner

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## SITE MAP

Map Information		Department of Environmental Quality	
TYPE _____		FACILITY	
NUMBER _____		COUNTY	
SCALE _____		DATE	CHECKED
		DRAWN	



GENERAL DISCHARGE PERMIT FOR  
STORM WATER ASSOCIATED WITH CONSTRUCTION ACTIVITY

MONTANA DEPARTMENT OF  
ENVIRONMENTAL QUALITY

AUTHORIZATION TO DISCHARGE UNDER THE  
MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Section 75-5-101 et seq., MCA, ARM 17.30.1301 et seq., and ARM 17.30.601 et seq., applicants with an authorization letter for this "Storm Water Associated with Construction Activity General Discharge Permit," are permitted to discharge storm water resulting only from construction activities, to state waters in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, III and IV hereof.

This permit shall become effective on the date of issuance.

This permit shall expire at midnight, August 31, 2002.

FOR THE MONTANA DEPARTMENT OF  
ENVIRONMENTAL QUALITY



Frederick C. Shewman, P.E., Supervisor  
Water Permits Section  
Water Protection Bureau  
Permitting & Compliance Division

Dated this 19<sup>th</sup> day of May, 1997

## PREAMBLE

The purpose of this preamble is to provide the permit holder with some understanding of what is required for compliance under this permit.

The basic principle of the permit is to identify areas or activities which may contribute pollutants to surface waters and consider practical methods to reduce such pollutants from your operation. The degree of pollution control needed will vary depending on the site and the situation. For example, if you are construction a road on perfectly flat ground in which there are no surface waters in close proximity to your activities, the potential to cause pollution of surface water is minimal and only minimal erosion controls would be expected. On the other hand, if you are construction a highway and there are several stream drainages, wetlands, etc., in close proximity to your project, very comprehensive and complete pollution controls would be expected.

The major pollutant that will be a problem for construction sites will be sediment discharges from increased erosion. If the project will impact a "live" water body (a stream, lake, reservoir, etc., that has water year round), you must ensure that sediment does not reach state waters by using appropriate erosion control practices. The discharge of discolored water could cause a violation of this permit. Adequate erosion control practices must also be used to prevent sediment discharges to wetlands, riparian areas, and ephemeral drainages.

Other pollutants most likely to be a problem at construction sites are fuels, lubricating oils, construction materials, fertilizers and pesticides. The bottom line is to store these materials properly and well away from surface waters to prevent spills of these materials and by not dumping in the first place.

The basic requirement of the "Storm Water Erosion Control Plan" are provided in Part II.



## TABLE OF CONTENTS

### I. COVERAGE UNDER THIS PERMIT

- A. Permit Area
- B. Sources Covered Under This Permit
- C. Application Procedures

### II. SPECIAL CONDITIONS

- A. Prohibitions on Non-Storm Water Discharges
- B. Releases in Excess of Reportable Quantities
- C. Storm Water Erosion Control Plan

### III. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. Monitoring Requirements
- B. Recording Requirements
- C. Reporting Requirements
- D. Records Retention
- E. Noncompliance Reporting
- F. Penalties for Tampering

### IV. STANDARD PERMIT CONDITIONS

- A. Duty to Comply
- B. Continuation of the Expired Permit
- C. Continuation of Authorization Following Renewal of the Expired General Permit
- D. Need to Halt or Reduce Activity not a Defense
- E. Duty to Mitigate
- F. Duty to Provide Information
- G. Other Information
- H. Signatory Requirements
- I. Certification
- J. Penalties for Falsification of Reports
- K. Oil and Hazardous Substance Liability
- L. Property Rights
- M. Severability
- N. State Laws
- O. Proper Operation and Maintenance
- P. Inspection and Entry
- Q. Permit Actions
- R. Re-opener Provision
- S. Notice of Termination
- T. Definitions

PART I.

I. COVERAGE UNDER THIS PERMIT

A. Permit Area

The permit applies to all areas of the State of Montana except Indian Reservations.

B. Sources Covered Under This Permit

The permit covers construction activities including clearing, grading, and excavating of a total of five or more acres that is a part of a common plan for development or sale or greater than once acre of contiguous clearing, grading and excavating, any part of which is located within one-hundred (100) feet of state waters.

The permit may also authorize storm water discharges from support activities related to a construction site (e.g. concrete or asphalt batch plants, equipment staging yards, material storage areas, etc.) provided:

1. the support activity is not a commercial operation service multiple unrelated construction projects, and does not operate beyond the completion of the construction activity; and
2. appropriate controls and measures are identified in the storm water erosion control plan for the discharge from the support activity.

All discharges shall be in accordance with the "approved" erosion control plan and the provisions of this permit. Any other direct waste discharge to public waters is prohibited unless covered by another MPDES permit.

This permit does not relieve the permittee from responsibility for compliance with any other applicable federal, state or local law, rule, standard, ordinance, order, judgement, or decree.

C. Application Procedures

1. **Application Due Dates:** At least thirty (30) days prior to construction taking place, the permittee (see definitions) of the construction activity shall submit an application as provided by the Department. For the purposes of this permit, both the owner and the contractor(s) are equally responsible for obtaining coverage under the general permit and shall be co-permittees.
2. **Application Form:** The application form requires, at a minimum, the following information:
  - 1) Name and address of contractor;
  - 2) Construction site address and name of owner/operator (for MDT projects, project number and designation);
  - 3) Contact person and telephone number;
  - 4) The nature of the construction activity;
  - 5) Total area of the site and the area that will be disturbed;
  - 6) Site location (County, Township, Range, Section, 1/4 Section);

- 7) The best management practices to be used during construction to control sediment and erosion.
  - 8) The best management practices to be used to control pollutants in storm water after construction is completed;
  - 9) Name of receiving water and indicate if discharging to a municipally owned storm sewer;
  - 10) A detailed erosion control plan must be approved prior to construction taking place;
  - 11) A site map and a drainage map (with drainage patterns indicated).
3. **Application Submittal:** A signed state application form shall be submitted to:
- Montana Department of Environmental Quality  
Water Protection Bureau  
1520 East Sixth Avenue  
P.O. Box 200901  
Helena, MT 59620-0901
4. **Authorization to Discharge:** Construction activities covered under this permit are authorized to begin construction and implement the "approved" erosion control plan in accordance with the permit upon receipt of an authorization under the general permit issued by the Department. An authorization is generally issued within 30 days of receipt of a complete application and an adequate Storm Water Erosion Control Plan.
5. **Additional Notification:** A copy of the authorization letter; a local contact telephone number/address for public access to view the erosion control plan; and a brief description of the project shall be posted at the construction site in a prominent place for public viewing (alongside the building permit if the building permit is required to be displayed).

PART II.

II. SPECIAL CONDITIONS

A. Prohibitions on Non-Storm Water Discharges

All discharges covered by this permit shall be composed entirely of storm water. Discharges of material other than storm water runoff must be in compliance with an MPDES permit (other than this permit) issued for the discharge.

B. Releases in Excess of Reportable Quantities

The discharge of hazardous substances or oil in the storm water discharge(s) from construction activities shall be minimized in accordance with the applicable Erosion Control Plan for the project. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110, 40 CFR 117 or 40 CFR 302, occurs during a 24-hour period.

- (1) The person in charge of the construction project is required to notify the National Response Center (800-424-8802) and the Water Protection Bureau (444-5338) as soon as he or she has knowledge of the discharge;
- (2) The permittee shall submit, within seven (7) calendar days of knowledge of the release, a report with a description of the release (including the type and estimate of the amount of material released), the circumstances leading to the release, and steps to be taken to re-mediate environmental contamination associated with the release to the Montana Department of Environmental Quality at the address provided in Part III.C.; and
- (3) The Storm Water Erosion Control Plan described below must be modified within seven (7) calendar days of knowledge of the release, provide a description of the release and the circumstances leading to the release, and to identify and provide for the implementation of steps to prevent the reoccurrence of such releases and to respond to remediation of such releases.

C. Storm Water Erosion Control Plan

Prior to commencement of construction, the permittee shall prepare and implement an Erosion Control Plan. The objective of the plan is to minimize the erosion of disturbed land during the construction and post construction activities and to minimize pollutants such as fuels, oil, grease, fertilizer, pesticides, concrete truck washout, etc., from discharging to surface waters.

The plan shall:

- (a) be submitted to the Department 30 days prior to construction for approval;
  - (b) be signed in accordance with the signatory requirement in Part IV.G.;
  - (c) a copy shall also be maintained at the construction site in accordance with Part III.D. of this permit; and
  - (d) provide for compliance with the terms and schedule of the plan once approved by the Department and updated as appropriate.
1. a) The contractor of a construction project covered by this permit shall maintain a copy of the erosion control plan on-site and a copy of the plan

shall be made available upon request to the owner, the Montana Department of Fish, Wildlife and Parks, local officials, and a municipal operator if the discharge is through a municipal system.

- b) The plan must be approved by the Department and implemented at the beginning and throughout the lifespan of the project. The Department may notify the permittee at any time that the plan does not meet one more of the minimum requirement of this part. After such notification from the Department, the permittee shall make changes to the plan and submit a written certification that the requested changes have been made to the Department, the permittee shall make changes to the plan and submit a written certification that the requested changes have been made to the Department. Unless otherwise provided by the Department, the permittee shall have seven (7) days after such notification to make the required changes.
  - c) The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to waters of the state or if the erosion control plan proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity.
2. The plan may include the use of sediment basins, berms, barriers, filter strips, covers, diversion structures, seeding, sodding, and/or other control structures or best management practices (BMP's). Any plan which requires engineered structures, such as detention ponds or diversion structures, or which is prepared for a construction activity which includes 20 acres or more in total land disturbance, shall be prepared by a registered professional engineer. The erosion control plan shall include at least the following items;
- a. Site Description. Each plan shall, at a minimum, provide a description of the following:
    - (1) The nature of the construction activity, including a proposed timetable for major activities;
    - (2) Estimates of the total area of the site, and all other sites if a phased development project, and the area of the site that is expected to undergo clearing, excavation, and/or grading;
    - (3) A site map indicating areas of total development and, as a minimum, all areas of soil disturbance, areas of cut and fill, drainage patterns and approximate slopes anticipated after major grading activities, areas used for the storage of soils or wasters, location of all erosion control facilities or structures and areas where vegetative practices are to be implemented, the location of impervious structures (including buildings, roads, parking lots, outdoor storage areas, etc.) after construction is completed, springs, wetlands and other surface waters, and the boundary of 100-year flood plain, if determined;
    - (4) The nature of fill material to be used, the existing soils located at the site, and the erodibility of such soils; and



- (5) the names of the receiving water(s) and the size, type and location of each outfall or, if the discharge is to a municipal separate storm sewer, a letter of approval from the municipality which authorizes use of the storm sewer and the location of any storm sewer discharge to public waters.

b. Controls

Each operator covered by this permit shall develop, as part of the erosion control plan, a description of controls appropriate for the site and shall implement such controls. The following minimum components shall be addressed along with a schedule for implementation, unless approved otherwise in writing by the permit issuing agency:

- (1) A description, including a schedule of implementation, of stabilization practices designed to preserve existing vegetation where practicable and re-vegetate open areas as soon as practicable after grading or construction. In developing vegetative practices, the operator shall consider temporary seeding, permanent seeding, mulching, sod stabilization, vegetative buffer/filter strips, grassed waterways, erosion control blankets, and tree and shrub planting.
- (2) A description of structural practices which indicates how, to the degree practicable, the permittee will divert flows from exposed soil, store flows, or otherwise limit runoff from exposed areas of the site. In developing structural practices, the operator shall consider the appropriateness of straw bale dikes, silt fences, earth dikes, brush barriers, drainage swales, check dams, subsurface drains, pipe slope drains, rock outlet protection, drain inlet and outlet protection, temporary drain diversions, sediment traps, temporary sediment basins, infiltration trenches or basins, and retaining walls. None of the temporary control structures, including silt fences and straw bale dikes, shall be removed until permanent vegetation and site stabilization has taken place.
- (3) For sites in which the tracking of sediment onto public or private roads during the wet season (November - June) will be a problem, the site shall have graveled access entrance and exit drives and parking areas. All unpaved roads on the site carrying more than 25 vehicle trips per day shall be graveled.
- (4) When trucking saturated soils from the site, either tight trucks shall be used or loads shall be required to drain until drippage has been reduced to less than one (1) gallon per hour before leaving the site.

3. Visible or measurable erosion which leaves the construction site or enters state waters is prohibited. Visible or measurable erosion is defined as:

- a. Deposits of mud, dirt, sediment or similar material exceeding ½ cubic foot in volume in any area of 100 square feet or less on public or private streets, adjacent property, or into the storm and surface water system, either by direct deposit, dropping, discharge, or as a result of the action of erosion; or

- b. Evidence of concentrated flows of water over bare soils; turbid or sediment laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on the site using the techniques in the approved erosion control plan; or
  - c. Earth slides, mud flows, earth sloughing, or other earth movement which leaves the construction site.
4. If any visible or measurable quantities of sediment leave the site because of the failure of the erosion control facilities, the sediment shall be immediately (within 24 hours of discovery) cleaned up and placed back on the site or disposed of in a manner approved by the Department. Under no conditions shall the sediment be washed into the storm sewers, drainageways or state waters.
  5. All non-regulated wastes composed of building material must be removed from the site or disposed in an approved disposal facility. Building material wastes or unused materials may not be dumped or discharged at the site. The State Solid Waste Program should be contacted concerning proper disposal of waste materials.
  6. A description of measures to control pollutants in storm water discharges that will occur after construction operations have been completed shall be addressed in the erosion control plan. Such practices may include storm water detention structures (including wet ponds), storm water retention structures, flow attenuation by use of open vegetated swales and natural depressions, and infiltration of runoff on-site.

### PART III.

### III. MONITORING, RECORDING AND REPORTING REQUIREMENTS

#### A. Monitoring Requirements

During the period beginning immediately and lasting through the duration of the permit, the permittee is authorized to discharge from outfall(s) as required within the erosion control plan. Such discharges shall be limited and monitored by the permittee as specified below:

1. All erosion control facilities shall be inspected and maintained by or under the direction of the permittee at least once every seven (7) calendar days and within 24 hours after any storm event.
2. During stormy periods or periods of snow melt when runoff occurs daily, all erosion control facilities shall be inspected and maintained by or under the direction of the permittee daily.
3. Storm water runoff discharges shall be visually monitored at the above frequency to evaluate the effectiveness of the pollution control facilities or practices. If any measurable quantities of sediment are leaving the project or entering state waters, corrective action shall be taken within 24 hours of discovery to reduce the discharge of sediments.

B. Recording Requirements

The operator shall keep a record of inspections, the date and time inspected, and the name of the person performing the inspection. Uncontrolled releases of mud or muddy water or measurable quantities of sediment found off the site or entering into ste waters shall be recorded with a brief explanation as to the measures taken to prevent future releases, as well as any measures taken to clean up the sediment that has left the site. This record shall be made available to the Department upon request and shall be signed in accordance with the signatory and certification requirements of Parts IV.G. and IV. H.

C. Reporting Requirements

If the construction activity lasts more than 12 months, an annual inspection of the site shall be conducted to identify areas which may be contributing pollutants to storm water discharges. The annual inspection report shall be submitted to the Department 30 days after the inspection has taken place. Inspection results shall be reported in writing to the Department address below:

Montana Department of Environmental Quality  
Water Protection Bureau  
1520 East Sixth Avenue  
P.O. Box 200901  
Helena, MT 59620-0901  
Phone: (406) 444-4323

D. Records Retention

All records and information resulting from the monitoring activities required by this permit shall be retained for a minimum of three (3) years, or longer if requested by the Department.

E. Noncompliance Reporting

If, for any reason, the permittee does not comply with or will be unable to comply with any condition specified in this permit, the permittee shall notify as soon as possible by phone and provide the Department with the following information, in writing, within five (54) days of becoming aware of such condition:

- a. A description of the discharge and cause of noncompliance; and
- b. The period for noncompliance, including exact dates and times; or, if not correct, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrences of the non-complying discharge.

F. Penalties for Tampering

The Montana Water Quality Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device, method or practice required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$25,000 per day of violation or imprisonment for not more than one (1) year, or both.



PART IV.

IV. STANDARD PERMIT CONDITIONS

A. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the Department advance notice of any planned changes at the permitted facility or of an activity which may result in permit noncompliance.

The Montana Water Quality Act (MCA 75-5-631) and the Federal Clean Water Act (Section 309) provide significant penalties for any person who violates a permit condition. Any person who violates any condition of this permit is subject to a civil penalty not to exceed \$25,000 per day of such violation, as well as any other appropriate sanction provided by Section 309 of the Clean Water Act.

B. Continuation of the Expired Permit

An expired general permit continues in full force and effect until a new general permit is issued for all permittees who have current authorization under the expiring general permit.

C. Continuation of Authorization Following Renewal of the Expired General Permit

In order to obtain authorization under the renewed general permit, applicants must submit a new application for coverage in accordance in ARM 17.30.1341.

D. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

E. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

F. Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

G. Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Department, it shall promptly submit such facts or information.

H. Signatory Requirements

All applications, reports or information submitted to the Department shall be signed and certified.

1. All permit applications shall be signed as follows:
  - a. For a Corporation: By a responsible corporate officer;
  - b. For a Partnership or Sole Proprietorship: By a general partner or the proprietor, respectively;
  - c. For a Municipality, State, Federal, or Other Public Agency: By either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative on if:
  - a. The authorization is made in writing by a person described above and submitted to the Department, and,
  - b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
3. Changes to authorization. If an authorization under paragraph IV.G.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of IV.G.2. must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

I. Certification

Any person signing a document under this section shall make the following certification:

*"I certify under penalty of the law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

J. Penalties for Falsification of Reports

The Montana Water Quality Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance shall, upon conviction be punished by a fine of not more than \$25,000 per day, or by imprisonment for not more than one (1) year per violation, or by both.

K. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

L. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

M. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

N. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

O. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of erosion control plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

P. Inspection and Entry

The permittee shall allow the Department or the Regional Administrator, or authorized representative thereof, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample and monitor, at reasonable times, for the purpose of assuring permit compliance, any substances or parameters at any location.

Q. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and re-issuance, or termination, or notification of planned changes or anticipated noncompliance, does not stay any permit condition..

R. Re-opener Provision

If there is evidence indicating potential or realized impacts on water quality due to any storm water discharge associated with construction activity covered by this permit, the owner or operator may be required to obtain an individual permit or an alternate general permit or the permit may be modified to include different limitations and/or requirements.

S. Notice of Termination

Where a site has been finally stabilized in accordance with the criteria established by DEQ, dated September 22, 1994, or where the operator or contractor at a site changes, the operator or contractor of the construction site shall submit a Notice of Termination that is signed in accordance with Part IV.G. The Notice of Termination shall include the following information:

1. The mailing address of the construction site. Where a mailing address for the site is not available, the location of the site must be described as County, Township, Range, Section and 1/4 Section;
2. The name, address and telephone number of the owner and contractor(s) involved with the site;
3. The MPDES permit number for the construction site;
4. Documentation of whether the site has been permanently stabilized or the contractor(s) of the project has changed; and
5. The Notice of Termination must be certified and signed in accordance with Part IV.G. and IV.H.

The Notice of Termination shall be sent to the following address:

Montana Department of Environmental Quality  
Water Protection Bureau  
1520 East Sixth Avenue  
P.O. Box 200901  
Helena, MT 59620-0901

The Department shall respond in writing to the permittee once the authorization has been terminated.

Failure to submit a Notice of Termination shall result in additional annual permit fee accumulation until notification has been received.

T. Definitions

1. ACT: The Federal Clean Water Act.
2. BEST MANAGEMENT PRACTICES (BMP's): Schedule of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of state waters. BMP's also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
3. BYPASS: The intentional diversion of waste streams from any portion of a treatment facility or a BMP.
4. THE DEPARTMENT: The Department of Environmental Quality.
5. PERMITTEE: Both the owner of the property and the contractor(s) conducting the construction activity. For the purposes of this permit, the owner and the contractor(s) will be co-permittees under the storm water general permit.
6. RECEIVING WATER: The river, stream, lake, etc., which receives the discharge from your site.
7. SEVERE PROPERTY DAMAGE: Substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
8. STORM WATER: Storm water runoff, snow melt runoff, and surface runoff and drainage.





DEPARTMENT OF ENVIRONMENTAL QUALITY  
GENERAL DISCHARGE PERMIT FOR STORM WATER ASSOCIATED  
WITH CONSTRUCTION ACTIVITY

NOTICE OF TERMINATION

*This form is to be used*

- \* when a site has been finally stabilized*
- \* when the operator at the site changes*
- \* when the contractor at the site changes*

MAILING ADDRESS OF THE CONSTRUCTION SITE

(If the address is not available, provide County, Township, Range, Section and 1/4 Section)

---

---

---

	OWNER	CONTRACTOR
NAME		
ADDRESS		
CITY, STATE, ZIP		
PHONE		
PERMIT #	MTR	

**Documentation of proper site stabilization is required for all projects.**

**All Montana Department of Transportation (MDT) Projects include a copy of the final acceptance letter.**

REASON FOR TERMINATION

- ☐ Site has been finally stabilized
- ☐ Operator at the site has changed
- ☐ Contractor at the site has changed

FURTHER COMMENTS REGARDING REASON TERMINATION

---

---

"I certify under penalty of the law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Send completed Notice of Termination to:

DEPARTMENT OF ENVIRONMENTAL QUALITY  
PERMITS DIVISION  
STORM WATER PROGRAM  
PO BOX 200901  
HELENA MT 59620-0901

Authorized Signature

Date





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VIII  
999 - 18<sup>TH</sup> STREET, SUITE 500  
DENVER, COLORADO 80202-2466

STORM WATER GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES

*Indian Country Lands in the State of Montana*

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et seq), except as provided in Part I.B.3 of this permit, operators of construction activities located in an area specified in Part I.A. and who submit a Notice of Intent in accordance with Part II, are authorized to discharge pollutants to waters of the United States in accordance with the conditions and requirements set forth herein.

This permit shall become effective on February 17, 1998.

This permit and the authorization to discharge shall expire at midnight, February 17, 2003.

Signed and issued this 15<sup>th</sup> day of January 1998.

  
Authorized Permitting Official

Kerrigan G. Clough, Assistant Regional Administrator  
Office of Pollution Prevention, State and Tribal Assistance  
Title

# NPDES GENERAL PERMIT FOR STORM WATER DISCHARGES FROM CONSTRUCTION ACTIVITIES

## TABLE OF CONTENTS

### Preface

Part I. COVERAGE UNDER THIS PERMIT	124
A. Permit Area	124
B. Eligibility	124
C. Obtaining Authorization	126
D. Terminating Coverage	127
Part II. NOTICE OF INTENT REQUIREMENTS	127
A. Deadlines for Notification	127
B. Contents of Notice of Intent	128
C. Where to Submit	129
Part III. SPECIAL CONDITIONS, MANAGEMENT PRACTICES, AND OTHER NON-NUMERIC LIMITATIONS	129
A. Prohibition on Non-Storm Water Discharges	129
B. Releases in Excess of Reportable Quantities	129
C. Spills	130
D. Discharge Compliance with Water Quality Standards	130
E. Responsibilities of Operators	130
Part IV. STORM WATER POLLUTION PREVENTION PLANS	131
A. Deadlines for Plan Preparation and Compliance	131
B. Signature, Plan Review and Making Plans Available	131
C. Keeping Plans Current	132
D. Contents of Plan	132
Part V. RETENTION OF RECORDS	138
A. Documents	138
B. Accessibility	138
C. Addresses	138
Part VI. STANDARD PERMIT CONDITIONS	138
A. Duty to Comply	138
B. Continuation of the Expired General Permit	139
C. Need to Halt or Reduce Activity not a Defense	139
D. Duty to Mitigate	139
E. Duty to Provide Information	139
F. Other Information	140
G. Signatory Requirements	140
H. Penalties for Falsification of Reports	141
I. Oil and Hazardous Substance Liability	141
J. Property Rights	141
K. Severability	141
L. Requiring an Individual Permit or an Alternative General Permit	141
M. State/Tribal Environmental Laws	142

N. Proper Operation and Maintenance . . . . .	142
O. Inspection and Entry . . . . .	142
P. Permit Actions . . . . .	142
Part VII. RE-OPENER CLAUSE . . . . .	142
Part VIII. TERMINATION OF COVERAGE . . . . .	142
A. Notice of Termination . . . . .	142
B. Addresses . . . . .	143
Part IX. DEFINITIONS . . . . .	143
ADDENDA . . . . .	147
A. ENDANGERED SPECIES . . . . .	147
B. HISTORIC PROPERTIES (RESERVED) . . . . .	158
C. NOTICE OF INTENT (NOI) FORM . . . . .	159
D. NOTICE OF TERMINATION (NOT) FORM . . . . .	161

## Preface

EPA's re-issued construction general permits (CGP) were published in the Federal Register on February 17, 1998 (see 63 FR 7857). That document included the conditions for 38 separate permits involving seven different Regions of EPA. Seven of those permits involve EPA Region VIII and this permit is one of them. In order to make this permit easier to read and understand, it has been reformatted from the style used in the Federal Register and limited to conditions and information that only apply to the area covered by this permit. References, conditions and information pertaining to all other Regions, States and Tribes that were included in the Federal Register, but not applicable to the areas covered by this permit, were removed. The conditions in this permit mimic the permits published in the Federal Register in all other ways. Persons that want CGP information for areas not covered by this permit should refer to the February 17, 1998 Federal Register or one of the other permits prepared by EPA Region VII.

## **Part I. COVERAGE UNDER THIS PERMIT**

### **A. Permit Area**

Indian Country lands in the State of Montana.

### **B. Eligibility**

1. Permittees are authorized to discharge pollutants in storm water runoff associated with construction activities as defined in 40 CFR 122.26(b)(14)(x) and those construction site discharges designated by the Director as needing a storm water permit under 122.26(a)(1)(v) or under 122.26(a)(9) and 122.26(g)(1)(i). Discharges identified under Part I.B.3 are excluded from coverage. Any discharge authorized by a different NPDES permit may be commingled with discharges authorized by this permit.
2. This permit also authorizes storm water discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided:
  - a. the support activity is directly related to a construction site that is required to have NPDES permit coverage for discharges of storm water associated with construction activity;
  - b. the support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and
  - c. appropriate controls and measures are identified in a storm water pollution prevention plan covering the discharges from the support activity areas.
3. Limitations on Coverage.
  - a. Post-Construction Discharges. This permit does not authorize storm water discharges that originate from the site after construction activities have been completed and the site, including any temporary support activity site, has undergone final stabilization. Industrial post-construction storm water discharges may need to be covered by a separate NPDES permit.

- b. Discharges Mixed with Non-Storm Water. This permit does not authorize discharges that are mixed with sources of non-storm water, other than those discharges which are identified in Part III.A.2. or 3. (Exceptions to prohibition on non-storm water discharges) and are in compliance with Part IV.D.5 (non-storm water discharges).
- c. Discharges Covered by Another Permit. This permit does not authorize storm water discharges associated with construction activity that have been covered under an individual permit or required to obtain coverage under an alternative general permit in accordance with Part VI.L.
- d. Discharges Threatening Water Quality. This permit does not authorize storm water discharges from construction sites that the Director (EPA) determines will cause, or have reasonable potential to cause or contribute to, violations of water quality standards. Where such determinations have been made, the Director may notify the operator(s) that an individual permit application is necessary in accordance with Part VI.L. However, the Director may authorize coverage under this permit after appropriate controls and implementation procedures designed to bring the discharges into compliance with water quality standards have been included in the storm water pollution prevention;
- e. Storm water discharges and storm water discharge-related activities that are not protective of federally-listed endangered and threatened ("listed" species or designated critical habitat ("critical habitat)).
  - (1) For the purposes of complying with the Part I.B.3.e. eligibility requirements, "storm water discharge-related activities" include:
    - (a) activities which cause, contribute to, or result in point source storm water pollutant discharges, including but limited to, excavation site development, grading and other surface disturbance activities; and
    - (b) measures to control storm water including the siting, construction and operation of best management practices (BMP's) to control, reduce or prevent storm water pollution.
  - (2) Coverage under this permit is available only if the applicant certifies that it meets at least one of the criteria in paragraphs (a)-(d) below. Failure to continue to meet one of these criteria during the term of the permit will render a permittee ineligible for coverage under this permit.
    - (a) The storm water discharges and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat; or
    - (b) Formal or informal consultation with the Fish & Wildlife Service and/or the National Marine Fisheries Service (the "Services") under Section 7 of the Endangered Species Act (ESA) has been concluded which addresses the effects of the applicant's storm

water discharges and storm water discharge-related activities on listed species and critical habitat and the consultation results in either a no jeopardy opinion or a written concurrence by the Service(s) on a finding that the applicant's storm water discharges and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat. A Section 7 consultation may occur in the context of another federal action (e.g., an ESA Section 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project, or as part of a National Environmental Policy Act (NEPA) review); or

- (c) The applicant's construction activities are authorized under Section 10 of the ESA and the authorization addresses the effects of the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat; or
  - (d) The applicant's storm water discharges and storm water discharge-related activities were already addressed in another operator's certification of eligibility under Part I.B.3.e.(2)(a), (b), or (c), which included the applicant's project area. By certifying eligibility under Part I.B.3.e.(2)(d), the applicant agrees to comply with any measures or controls upon which the other operator's certification under Part I.B.3.e.(2)(a), (b) or (c) was based.
- (3) All applicants must follow the procedures provided at Addendum A of this permit when applying for permit coverage.
  - (4) The applicant must comply with any applicable terms, conditions or other requirements developed in the process of meeting eligibility of Part I.B.3.4(2)(a), (b), (c) or (d) above to remain eligible for coverage under this permit. Such terms and conditions must be incorporated in the applicant's storm water pollution prevention plan.
  - (5) Applicants who choose to conduct informal consultation to meet the eligibility requirements of Part I.B.3.e.(2)(b) are automatically designated as non-federal representatives under this permit. See 50 CFR 402.08. Applicants who choose to conduct informal consultation as a non-federal representative must notify EPA and the appropriate service office in writing of that decision.
  - (6) This permit does not authorize any storm water discharges where the discharges or storm water discharge-related activities cause prohibited "take" (as defined under Section 3 of the Endangered Species Act and 50 CFR 17.3) of endangered or threatened species unless such takes are authorized under Sections 7 or 10 of the Endangered Species Act.



- (7) This permit does not authorize any storm water discharges where the discharges or storm water discharge-related activities are likely to jeopardize the continued existence of any species that are listed or proposed to be listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated or proposed to be designated as critical under the ESA.

- f. Storm water discharges and storm water discharge-related activities with unconsidered adverse effects on historic properties. (RESERVED)

C. Obtaining Authorization

1. In order for storm water discharges from construction activities to be authorized under this general permit, an operator must:
  - a. meet the Part I.B. eligibility requirements;
  - b. except as provided in Parts II.A.5. and II.A., develop a storm water pollution prevention plan (SWPPP) covering either the entire site or all portions of the site for which they are operators (see definition in Part IX.N.) According to the requirements in Part IV. A "joint" SWPPP may be developed and implemented as a cooperative effort where there is more than one operator at a site; and
  - c. submit a Notice of Intent (NOI) in accordance with the requirements of Part II, using an NOI form provided by the Director (or a photocopy thereof, see Addendum C, page 45). Only one NOI need be submitted to cover all of the permittee's activities on the common plan of development or sale (e.g., you do not need to submit a separate NOI for each separate lot in a residential subdivision or for two separate buildings being constructed at a manufacturing facility, provided your SWPPP covers each area for which you are an operator). The SWPPP must be implemented upon commencement of construction activities.
2. Any new operator on site, including those who replace an operator who has previously obtained permit coverage, must submit an NOI to obtain permit coverage.
3. Unless notified by the Director to the contrary, operators who submit a correctly completed NOI in accordance with the requirements of this permit are authorized to discharge storm water from construction activities under the terms and conditions of this permit two (2) days after the date that the NOI is postmarked. The Director may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information (see Part VI.L.)

D. Terminating Coverage

1. Permittees wishing to terminate coverage under this permit must submit a Notice of Termination (NOT) in accordance with Part VIII. Of this permit (see Addendum D). Compliance with this permit is required until an NOT is submitted. The permittee's authorization to discharge under this permit terminates at midnight of the day the NOT is signed.

2. All permittees must submit an NOT within thirty (30) days after one or more of the following conditions have been met:
  - a. final stabilization (see definition Part IX.I) has been achieved on all portions of the site for which the permittee is responsible (including, if applicable, returning agricultural land to it pre-construction agricultural use);
  - b. another operator/permittee has assumed control according to Part VI.G.2.c. over all areas of the site that have not been finally stabilized; or
  - c. for residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

Enforcement actions may be taken if a permittee submits an NOT without meeting one or more of these conditions.



**Part II. NOTICE OF INTENT REQUIREMENTS****A. Deadlines for Notification**

1. Except as provided in Parts II.A.3., II.A.4., II.A.5., or II.A.6. below, parties defined as operators (see definition in Part IX.N.) Due to their operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications, must submit a Notice of Intent (NOI) in accordance with the requirements of this Part at least two (2) days prior to the commencement of construction activities (i.e., the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities).
2. Except as provided in Parts II.A.3., II.A.4., II.A.5., or II.A.6. below, parties defined as operators (see definition in Part IX.N.) Due to their day-to-day operational control over activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan or other permit conditions (e.g., general contractor, erosion control contractor) must submit and NOI at least two (2) days prior to commencing work on-site.
3. For storm water discharges from construction projects where the operator changes, including instances where an operator is added after an NOI has been submitted under Parts II.A.1. or II.A.2. the new operator must submit an NOI at least two (2) days before assuming operational control over site specifications or commencing work on-site.
4. Operators are not prohibited from submitting late NOI's. When a late NOI is submitted, authorization is only for discharges that occur after permit coverage is granted. The Agency reserves the right to take appropriate enforcement actions for any unpermitted activities that may have occurred between the time construction commenced and authorization of future discharges is granted (typically two days after a completed NOI is submitted).
5. Operators of ongoing construction projects as of the effective date of this permit which received authorization to discharge for these projects under the 1992 baseline construction general permit must:
  - a. submit an NOI according to Part II.B. within 90 days of the effective date of this permit. If the permittee is eligible to submit a Notice of Termination (e.g., construction is finished and final stabilization has been achieved) before the 90<sup>th</sup> day, a new NOI is not required to be submitted;
  - b. for the first 90 days from the effective date of this permit, comply with the terms and conditions of the 1992 baseline construction general permit they were previously authorized under; and
  - c. update their storm water pollution prevention plan to comply with the requirements of Part IV. Within 90 days after the effective date of this permit.
6. Operators of ongoing construction projects as of the effective date of this permit which did not receive authorization to discharge for these projects under the 1992 baseline construction permit must:

- a. prepare and comply with an interim storm water pollution prevention plan in accordance with the 1992 baseline construction general permit prior to submitting an NOI;
- b. submit an NOI according to Part II.B.; and
- c. update their storm water pollution prevention plan to comply with the requirements of Part IV within 90 days after the effective date of this permit.

B. Contents of Notice of Intent (NOI)

- I. The NOI form shall be signed in accordance with Part VI.G. of this permit and shall include the following information:
  - a. the name, address, and telephone number of the operator filing the NOI for permit coverage;
  - b. an indication of whether the operator is a federal, state, tribal, private, or other public entity;
  - c. the name (or other identifier), address, county, and latitude/longitude of the construction project or site;
  - d. an indication (yes or no) of whether the project or site is located on Indian Country lands;
  - e. confirmation that a storm water pollution prevention plan (SWPPP) has been developed or will be developed prior to commencing construction activities, and that the SWPPP will be compliant with any applicable local sediment and erosion control plans. Copies of SWPPP's or permits should not be included with the NOI submission;
  - f. optional information: the location where the SWPPP may be viewed and the name and telephone number of a contact person for scheduling viewing items;
  - g. the name of the receiving water(s);
  - h. estimates of project start and completion dates and estimates of the number of acres of the site on which soil will be disturbed (is less than 1 acre, enter "1");
  - i. based on the instructions in Addendum A, whether any listed or proposed threatened or endangered species, or designated critical habitat, are in proximity to the storm water discharges or storm water discharge-related activities to be covered by this permit; and
  - j. under which section(s) of Part I.B.3.e. (Endangered Species) the applicant is certifying eligibility.

Note that as of the effective date of this permit, reporting of information relating to the preservation of historic properties has been reserved and is not required at this time.

Such reservation in no way relieves applicants or permittees from any otherwise applicable obligations or liabilities related to historic preservation under state, tribal or local law. After further discussions between EPA and the Advisory Council on Historic Preservation, the Agency may modify the permit. Any such modification may affect future Notice of Intent reporting requirements.

C. Where to Submit

- I. NOI's must be signed in accordance with Part VI.G. and sent to the following address:

Storm Water Notice of Intent (4203)  
US EPA  
401 M. Street, SW  
Washington, DC 20460

2. Special NOI Requirements for Projects on the Flathead Indian Reservation. NOI's shall also be submitted to the Confederated Salish and Kootenai Tribes at the same time they are submitted to EPA at the following address:

Confederated Salish and Kootenai Tribes  
Natural Resources Department  
Department Head  
P.O. Box 278  
Pablo, MT 59855

*NOTE: Projects located on the Flathead Indian Reservation must also submit copies of the storm water pollution prevention plan (see Part IV.A.3.) And Notice of Termination (see Part VIII.B.2.) To the Confederated Salish and Kootenai Tribes at the address above.*

*Copies of the storm water pollution prevention plan should not be sent to EPA unless requested.*

**Part III. SPECIAL CONDITIONS, MANAGEMENT PRACTICES, AND OTHER NON-NUMERIC LIMITATIONS**

**A. Prohibition on Non-Storm Water Discharges**

1. Except as provided in Parts I.B.2. or 3., and II.A.2. or 3., all discharges covered by this permit shall be composed entirely of storm water associated with construction activity.
2. Discharges of material other than storm water that are in compliance with an NPDES permit (other than this permit) issued for that discharge may be discharged or mixed with discharges authorized by this permit.
3. The following non-storm water discharges from active construction sites are authorized by this permit provided the non-storm water component of the discharge is in compliance with Part IV.D.5. (Non-storm water discharges): discharges from fire fighting activities; fire hydrant flushings; waters used to wash vehicles where detergents are not used; water used to control dust in accordance with Part IV.D.2.c.(2); potable water sources including waterline flushings; routine external building wash down which does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; uncontaminated ground water or spring water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.

**B. Releases in Excess of Reportable Quantities**. The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117 and 40 CFR 302. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110, 40 CFR 117 or 40 CFR 302, occurs during a 24-hour period.:

1. The permittee is required to notify the National Response Center (NRC) (800-424-8802; in the Washington, DC metropolitan area call 202-426-2675) in accordance with the requirements of 40 CFR 110, 40 CFR 117 or 40 CFR 302, as soon as he/she has knowledge of the discharge;
2. The storm water pollution prevention plan required under Part IV. Of this permit must be modified with 14 calendar days of knowledge of the release to provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent re-occurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

**C. Spills**. This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

D. Discharge Compliance With Water Quality Standards. Operators seeking coverage under this permit shall not be causing or have the reasonable potential to cause or contribute to a violation of a water quality standard, the Director will notify the operator of such violation(s). The permittee shall take all necessary actions to ensure future discharges do not cause or contribute to the violation of a water quality standard and document these actions in the storm water pollution prevention plan. If violations remain or re-occur, then coverage under this permit may be terminated by the Director, and an alternative general permit or individual permit may be issued. Compliance with this requirement does not preclude any enforcement activity as provided by the Clean Water Act for the underlying violation.

E. Responsibilities of Operators. Permittees may meet one or both of the operational control components in the definition of "operator" found in Part IX.N. Either Parts III.E.1. or III.E.2., or both, will apply, depending on the type of operational control exerted by an individual permittee. Part III.E.3. applies to all permittees.

1. Permittees with operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications (e.g., developer or owner), must:
  - a. ensure the project specifications that they develop meet the minimum requirements of Part IV. (Storm Water Pollution Prevention Plans (SWPPP)), and all other applicable conditions;
  - b. ensure that the SWPPP indicates the areas of the project where they have operational control over project specifications (including the ability to make modifications in specifications), and ensure all other permittees implementing portions of the SWPPP impacted by any changes they make to the plan are notified of such modifications in a timely manner; and
  - c. ensure that the SWPPP for portions of the project where they are operators indicates the name and NPDES permit number of parties with day-to-day operational control of those activities necessary to ensure compliance with the SWPPP or other permit conditions. If these parties have not been identified at the time the SWPPP is initially developed, the permittee with operational control over project specifications shall be considered to be the responsible party until such time as the authority is transferred to another party (e.g., general contractor) and the plan updated.
2. Permittee(s) with day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., general contractor) must:
  - a. ensure that the SWPPP for portions of the project where they are operators meets the minimum requirements of Part IV. (Storm Water Pollution Prevention Plan) and identifies the parties responsible for implementations of control measures identified in the plan;
  - b. ensure that the SWPPP indicates areas of the project where they have operational control over day-to-day activities;
  - c. ensure that the SWPPP for portions of the project where they are operators indicates the name and NPDES permit number of the party(ies) with operational control over project specifications (including the ability to make modifications in specifications).



3. Permittees with operational control over only a portion of a larger construction project (e.g., one of four homebuilders in a subdivision) are responsible for compliance with all applicable terms and conditions of this permit as it relates to their activities on their portion of the construction site, including protection of endangered species and implementation of BMP's and other controls required by the SWPPP. Permittees shall ensure either directly or through coordination with other permittees, that their activities do not render another party's pollution control ineffective. Permittees must either implement their portions of a common SWPPP or develop and implement their own SWPPP.

#### Part IV. STORM WATER POLLUTION PREVENTION PLANS

At least one storm water pollution prevention plan (SWPPP) shall be developed for each construction project or site covered by this permit. For more effective coordination of BMP's and opportunities for cost sharing, a cooperative effort by the different operators at a site to prepare and participate in a comprehensive SWPPP is encouraged. Individual operators at a site may, but are not required, to develop separate SWPPP's that cover only their portion of the project, provided reference is made to other operators at the site. In instances where there is more than one SWPPP for a site, coordination must be conducted between the permittees to ensure the storm water discharge controls and other measures are consistent with one another (e.g., provisions to protect listed species and critical habitat).

Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The SWPPP shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site. The SWPPP shall describe and ensure the implementation of practices which will be used to reduce the pollutants in storm water discharges associated with construction activity at the construction site and assure compliance with the terms and conditions of this permit.

When developing SWPPP's, applicants must follow the procedures in Addendum A of this permit to determine whether listed endangered or threatened species or critical habitat would be affected by the applicant's storm water discharges or storm water discharge-related activities. Any information on whether listed species or critical habitat are found in proximity to the construction must be included in the SWPPP. Any terms or conditions that are imposed under the eligibility requirements of Part I.B.3.e. and Addendum A of this permit to protect listed species or critical habitat from storm water discharges or storm water discharge-related activity must be incorporated into the SWPPP. Permittees must implement the applicable provisions of the SWPPP required under this part as a condition of this permit.

##### A. Deadlines for Plan Preparation and Compliance. The storm water prevention plan shall:

1. be completed prior to the submittal of an NOI to be covered under this permit (except as provided in Parts II.A.5. and II.A.6.) updated as appropriate; and
2. provide for compliance with the terms and schedule of the SWPPP beginning with the initiation of construction activities.
3. **Special Storm Water Pollution Prevention Plan Requirements for Projects on the Flathead Indian Reservation.** Storm Water Pollution Prevention Plans (SWPPP's) must be submitted to the Confederated Salish and Kootenai Tribes' Natural Resources Department before a project on the Flathead Indian Reservation begins. SWPPP's are to be sent to the address given in Part II.C.2. Copies of the SWPPP should not be sent to EPA unless requested.

##### B. Signature, Plan Review and Making Plans Available.

1. The SWPP shall be signed in accordance with Part VI.G., and be retained on-site at the facility which generates the storm water discharge in accordance with Part V. (Retention of Records) of this permit.

2. The permittee shall post a notice near the main entrance of the construction site with the following information:
  - a. the NPDES permit number for the project or a copy of the NOI if a permit number has not yet been assigned;
  - b. the name and telephone number of a local contact person;
  - c. a brief description of the project; and
  - d. the location of the SWPP if the site is inactive or does not have an on-site location to store the plan.

If posting this information near a main entrance is not feasible due to safety concerns, the notice shall be posted in a local public building. If the construction project is a linear construction project (e.g., pipeline, highway, etc.), the notice must be placed in a publicly accessible location near where construction is actively underway and moved as necessary. This permit does not provide the public with any right to trespass on a construction site for any reason, including inspection of a site; nor does this permit require that permittees allow members of the public access to a construction site.

3. The permittee shall make SWPPP's available upon request to the Director, a state, tribal, or local agency approving sediment and erosion plans, grading plans or storm water management plans, local government officials, or the operator of a municipal separate storm sewer receiving discharges from the site. The copy of the SWPPP that is required to be kept on-site or locally available, must be made available to the Director for review at the time of the on-site inspection. Also, in the interest of public involvement, EPA encourages permittees to make their SWPPP's available to the public for viewing during normal business hours.
4. The Director may notify the permittee at any time that the SWPPP does not meet one or more of the minimum requirements of this Part. Such notification shall identify those provisions of this permit which are not being met by the SWPPP, as well as those requiring modification in order to meet the minimum requirements of this Part. With seven (7) calendar days of receipt of such notification from the Director (or as otherwise provided by the Director), the permittee shall make the required changes to the SWPP and shall submit to the Director a written certification that the requested changes have been made. The Director may take appropriate enforcement action for the period of time the permittee was operating under a plan that did not meet the minimum requirements of this permit.

**C. Keeping Plans Current.** The permittee must amend the storm water pollution prevention plan whenever:

1. there is a change in design, construction, operation, or maintenance which has a significant effect on the discharge of pollutants to the waters of the United States which has not been addressed in the SWPPP; or
2. inspections or investigations by site operators, local, state, tribal or federal officials indicate the SWPPP is proving ineffective in eliminating or significantly minimizing pollutants from sources identified under Part IV.D.1. of this permit, or is otherwise not achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity.



D. Contents of Plan. The storm water pollution prevention plan (SWPPP) shall include the following items:

1. **Site Description.** Each SWPPP shall provide a description of potential pollutant sources and other information as indicated below:
  - a. A description of the nature of the construction activity;
  - b. A description of the intended sequence of major activities which disturb soils for major portions of the site (e.g., grubbing, excavation, grading, utilities and infrastructure installation);
  - c. Estimates of the total area of the site and total area of the site that is expected to be disturbed by excavation, grading, or other activities, including off-site borrow and fill areas;
  - d. An estimate of the runoff coefficient of the site for both the pre-construction and post-construction conditions and data describing the soil or the quality of any discharge from the site;
  - e. A general location map (e.g., a portion of a city or county map) and a site map indicating drainage patterns and approximate slopes anticipated after major grading activities, areas of soil disturbance, areas which will not be disturbed, locations of major structural and non-structural control identified in the SWPPP, locations where stabilization practices are expected to occur, locations of off-site material (waste, borrow or equipment storage areas), surface waters (including wetlands), and locations where storm water discharges to a surface water;
  - f. Location and description of any discharge associated with industrial activity other than construction, including storm water discharges from dedicated asphalt plants and dedicated concrete plants, which is covered by this permit;
  - g. The name of the receiving water(s) and the areal extent and description of wetland or other special aquatic sites (as described under 40 CFR 230.3 (q-1) at or near the site which will be disturbed or which will receive discharges from disturbed areas of the project;
  - h. A copy of the permit requirements (attaching a copy of this permit is acceptable); and
  - i. Information on whether listed endangered or threatened species or critical habitat, are found in proximity to the construction activity and whether such species may be affected by the applicant's storm water discharges or storm water discharge-related activities.

2. **Controls.** Each SWPPP shall include a description of appropriate control measures (i.e., BMP's) that will be implemented as part of the construction activity to control pollutants in storm water discharges. The SWPPP must clearly describe, for each major activity identified in Part IV.D.1.b.:

- a. appropriate control measures and the general timing (or sequence) during the construction process that the measures will be implemented; and
- b. which permittee is responsible for implementation (e.g., perimeter controls for one portion of the site will be installed by Contractor A after the clearing and grubbing necessary for installation of the measure, but before the clearing and grubbing for the remaining portions of the site, and the perimeter controls will be actively maintained by Contractor B until final stabilization of those portions of the site up-gradient of the perimeter control, and temporary perimeter controls will be remove by the owner after final stabilization).

The description and implementation of control measures shall address the following minimum components:

1. Erosion and Sediment Controls

(a) Short- and Long-Term Goals and Criteria:

- (1) The construction-phase erosion and sediment controls should be designed to retain sediment on-site to the extent practicable.
- (2) All control measures must be properly selected, installed, and maintained in accordance with the manufacturer's specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately or incorrectly, the permittee must replace or modify the control for site situations.
- (3) If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts (e.g., fugitive sediment in street could be washed into storm sewers by the next rain and/or pose a safety hazard to users of public streets).
- (4) Sediment must be removed from sediment traps or sedimentation ponds when design capacity has been reduced by 50 percent.
- (5) Litter, construction debris and construction chemicals exposed to storm water shall be prevented from becoming a pollutant source for storm water discharges (e.g., screening outfalls, picked up daily).

- (6) Off-site material storage areas (also including overburden and stockpiles of dirt, borrow areas, etc.) used solely by the permitted project are considered a part of the project and shall be addressed in the SWPPP.
- (2) Stabilization Practices. The SWPPP must include a description of interim and permanent stabilization practices for the site, including a schedule of when the practices will be implemented. Site plans should ensure that existing vegetation is preserved where attainable and the disturbed portions of the site are stabilized. Stabilization practices may include but are not limited to establishment of temporary vegetation, establishment of permanent vegetation, mulching, geotextiles, sod stabilization, vegetative buffer strip, protection of trees, preservation of mature vegetation, and other appropriate measures. Use of impervious surfaces for stabilization should be avoided.

The following records shall be maintained and attached to the SWPPP: the dates when major grading activities occur, the dates when construction activities temporarily or permanently cease on a portion of the site, and the dates when stabilization measures are initiated.

Except as provided in Parts IV.D.2.a.(2)(a), (b) and (c) below, stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased.

- (a) Where the initiation of stabilization measures by the 14<sup>th</sup> day after construction activity temporarily or permanently cease is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable.
- (b) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 21 days, temporary stabilization measures do not have to be initiated on the portion of site.
- (c) In arid areas (areas with an average annual rainfall of 0 to 10 inches), semi-arid areas (areas with an average annual rainfall of 10 to 20 inches), and areas experiencing droughts where the initiation of stabilization measures by the 14<sup>th</sup> day after construction activity has temporarily or permanently ceased is precluded by seasonal arid conditions, stabilization measures shall be initiated as soon as practicable.

- (3) Structural Practices. The SWPPP must include a description of structural practices to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable. Structural practices may include, but are not limited to silt fences, earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. Placement of structural practices in floodplains should be avoided to the degree attainable. The installation of these devices may be subject to Section 404 of the CWA.

- (a) For common drainage locations that serve an area with ten (10) or more acres disturbed at one time, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from a 2-year, 24-hour storm from each disturbed acre drained, or equivalent control measures, shall be provided where attainable until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, shall be provided where attainable until final stabilization of the site. When computing the number of acres draining into a common location it is not necessary to include flows from off-site areas and flows from on-site areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin.

In determining whether installing a sediment basin is attainable the permittee may consider factors such as sit soils, slope, available area on-site, etc. In any event, the permittee must consider public safety, especially as it relates to children, as a design factor for the sediment basin and alternative sediment controls shall be used where site limitations would preclude a safe design. For drainage locations which serve ten (10) or more disturbed acres at one time and where a temporary sediment basins and/or sediment traps should be used. Whether neither the sediment basin nor equivalent controls are attainable due to site limitations, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries of the construction area and for those side slope boundaries deemed appropriate as dictated by individual site conditions. EPA encourages the use of a combination of sediment and erosion control measures in order to achieve maximum pollutant removal.

- (b) For drainage locations serving less than ten (10) acres, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions) of the construction area unless a sediment basin providing storage for a calculated volume of runoff from a 2-year, 24-hour storm or 3,600 cubic feet of storage per acre drained is provided. EPA encourages the use of a combination of sediment and erosion control measures in order to achieve maximum pollutant removal.
- b. Storm Water Management. A description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed must be included in the SWPPP. Structural measures should be placed on upland soils to the degree attainable. The installation of these devices may also require a separate permit under Section 404 of the CWA. Permittees are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with construction activity have been eliminated from the site. However, post-construction storm water BMP's that discharge pollutants from point sources once construction is completed, may in themselves, need authorization under a separate NPDES permit.
  - (1) Such practices may include but are not limited to storm water detention structures (including wet ponds), storm water retention structures, flow attenuation by use of open vegetated swales and natural depressions, infiltration of runoff on-site, and sequential systems (which combine several practices). The SWPPP shall include an explanation of the technical basis used to select the practices to control pollution where flows exceed pre-development levels.
  - (2) Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water).
- c. Other Controls.
  - (1) No solid materials, including building materials, shall be discharged to waters of the United States, except as authorized by a permit issued under Section 404 of the CWA.
  - (2) Off-site vehicle tracking of sediments and the generation of dust shall be minimized.
  - (3) The SWPPP shall be consistent with applicable state, tribal and/or local waste disposal, sanitary sewer or septic system regulations to the extent these are located within the permitted area.



- (4) The SWPPP shall include a description of construction and waste materials expected to be stored on-site with updates as appropriate. The SWPPP shall also include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to storm water, and spill prevention and response.
- (5) The SWPPP shall include a description of pollutant sources from areas other than construction (including storm water discharges from dedicated asphalt plants and dedicated concrete plants), and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges.
- (6) The SWPPP shall include a description of measures necessary to protect listed endangered or threatened species, or critical habitat, including any terms or conditions that are imposed under the eligibility requirements of Part I.B.3.e.(4) of this permit. Failure to describe and implement such measures will result in storm water discharges from construction activities that are ineligible for coverage under this permit.

d. Approved State, Tribal or Local Plans.

- (1) Permittees which discharge storm water associated with construction activities must ensure their storm water pollution prevention plan is consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by state, tribal or local officials.
  - (2) Storm water pollution prevention plans must be updated as necessary to remain consistent with any changes applicable to protecting surface water resources in sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by state, tribal or local officials for which the permittee receives written notice.
3. **Maintenance.** All erosion and sediment control measures and other protective measures identified in the SWPPP must be maintained in effective operating condition. If site inspections required by Part IV.D.4. identify BMP's that are not operating effectively, maintenance shall be performed before the next anticipated storm event, or as necessary to maintain the continued effectiveness of storm water controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable.
4. **Inspections.** Qualified personnel (provided by the permittee or cooperatively by multiple permittees) shall inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every fourteen (14) calendar days and within 24 hours of the end of the storm event of 0.5 inches or greater.

Where sites have been finally or temporarily stabilized, runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice, or frozen ground exists), or during seasonal arid periods in arid areas (areas with an average annual rainfall of 0 to 10 inches) such inspections shall be conducted at least once every month.

Permittees are eligible for a waiver of monthly inspection requirements until on month **before** thawing conditions are expected to result in a discharge if all of the following requirements are met: 1) the project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e., more than one month); 2) land disturbance activities have been suspended; and 3) the beginning and ending dates of the waiver period are documented in the SWPPP.

- a. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Sediment and erosion control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters. Where discharge locations are inaccessible, nearby downstream locations shall be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.
  - b. Based on the results of the inspection, the SWPPP shall be modified as necessary (e.g., show additional controls on map required by Part IV.D.1; revise description of controls required by Part IV.D.2) to include additional or modified BMP's designed to correct problems identified. Revisions to the SWPPP shall be completed with seven (7) calendar days following the inspection. If existing BMP's need to be modified or if additional BMP's are necessary, implementation shall be completed before the next anticipated storm event. If implementation before the next anticipated storm event is impracticable, they shall be implemented as soon as practicable.
  - c. The report summarizing the scope of the inspect, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, and major observations relating to the implementation of the SWPPP shall be made and retained as part of the SWPPP for at least three (3) years from the date that the site is finally stabilized. Major observations should include the location(s) of discharges of sediment or other pollutants from the site, location(s) of BMP's that need to be maintained, location(s) of BMP's that failed to operate as designed or proved inadequate for a particular location, and location(s) where additional BMP's are needed that did not exist at the time of inspection. Actions taken in accordance with Part IV.D.4.b. of this permit shall be made and retained as part of the storm water pollution prevention plan for at least three (3) years from the date that the site is finally stabilized. Such reports shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VIG. Of this permit.
5. **Non-Storm Water Discharges.** Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2. or 3. Of this permit that are combined with storm water discharges associated with construction activity must be identified in the SWPPP. The SWPPP shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

## Part V. RETENTION OF RECORDS

- A. Documents. The permittee shall retain copies of storm water pollution prevention plans and all reports required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit, for a period of at least three (3) years from the date that the site is finally stabilized. This period may be extended by request of the Director at any time.
- B. Accessibility. The permittee shall retain a copy of the storm water pollution prevention plan required by this permit (including a copy of the permit language) at the construction site (or other local location accessible to the Director, a state, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans, local government officials, or the operator of a municipal separate storm sewer receiving discharges from the site) from the date of project initiation to the date of final stabilization. Permittees with day-to-day operational control over SWPPP implementation shall have a copy of the SWPPP available at a central location on-site for the use of all operators and those identified as having responsibilities under the SWPPP whenever they are on the construction site.
- C. Addresses. Except for the submittal of NOI's and NOT's (see Parts II.C. and VIII.B., respectively), all written correspondence concerning discharges in any state, Indian country land, or from any federal facility covered under this permit and directed to the EPA, including the submittal of individual permit applications, shall be sent to the following address:

United States EPA, Region 8  
Ecosystems Protection Program (8EPR-EP)  
Storm Water Staff  
999 - 18<sup>th</sup> Street, Suite 500  
Denver, CO 80202-2466



## Part VI. STANDARD PERMIT CONDITIONS

### A. Duty to Comply

1. The permittee must comply with all conditions of this permit. Any permit non-compliance constitutes a violation of CWA and is grounds for enforcement action; for permit termination, revocation and re-issuance, or modification; or for denial of a permit renewal application.
2. **Penalties for Violations of Permit Conditions.** The Director will adjust the civil and administrative penalties listed below in accordance with the Civil Monetary Penalty Inflation Adjustment Rule (Federal Register: December 31, 1996, Volume 61, Number 252, pages 69359-69366, as corrected, March 20, 1997, Volume 62, Number 54, Pages 13514-13517) as mandated by the Debt Collection Improvement Act of 1996 for inflation on a periodic basis. This rule allows EPA's penalties to keep pace with inflation. The Agency is required to review its penalties at least once every four years thereafter and to adjust them as necessary for inflation according to a specified formula. The civil and administrative penalties listed below were adjusted for inflation starting in 1996.

#### a. Criminal

- (1) *Negligent Violations.* The CWA provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one (1) year, or both.
- (2) *Knowing Violations.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one (1) year, or both.
- (3) *Knowing Endangerment.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.
- (4) *False Statement.* The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under the Act, or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two (2) years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four (4) years, or by both (see Section 309.c.4. of the Clean Water Act).

- b. Civil Penalties. The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$27,500 per day for each violation.
  - c. Administrative Penalties. The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:
    - (1) Class I Penalty. Not to exceed \$11,000 per violation nor shall the maximum amount exceed \$27,500.
    - (2) Class II Penalty. Not to exceed \$11,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$137,500.
- B. Continuation of the Expired General Permit. If this permit is not re-issued or replaced prior to the expiration date, it will be administratively continues in accordance with the Administrative Procedures Act and remain in force and effect. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:
- 1. Re-issuance or replacement of this permit, at which time the permittee must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
  - 2. the permittees submittal of a Notice of Termination; or
  - 3. issuance of an individual permit for the permittee's discharges; or
  - 4. a formal permit decision by the Director not to reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.
- C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. Duty to Provide Information. The permittee shall furnish to the Director or an authorized representative of the Director any information which is requested to determine compliance with this permit or other information.
- F. Other Information. When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other preport to the Director, he or she shall promptly submit such facts or information.
- G. Signatory Requirements. All Notices of Intent, Notice of Termination, storm water pollution prevention plans, reports, certifications or information either submitted to the Director or the operator of a large or medium municipal separate storm sewer system, or that this permit requires be maintained by the permittee, shall be signed as follows:

1. All Notices of Intent and Notices of Termination shall be signed as follows:
  - a. For a Corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
  - b. For a Partnership or Sole Proprietorship: By a general partner or the proprietor, respectively; or
  - c. For a Municipality, State, Federal, or Other Public Agency: By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency include (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
2. All reports required by this permit and other information requested by the Director or authorized representative of the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - a. the authorization is made in writing by a person described above and submitted to the Director.
  - b. the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or and individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).
  - c. Changes to Authorization. If an authorization under Part II.B. is no longer accurate because a different operator has responsibility for the overall operation of the construction site, a new Notice of Intent satisfying the requirements of Part II.B. must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative. The change in authorization must be submitted within the time frame specified in Part II.A.3., and sent to the address specified in Part II.C.

- d. Certification. Any person signing documents under Part VI.G. shall make the following certification:

*"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

- H. Penalties for Falsification of Reports. Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or by both.
- I. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the CWA or Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).
- J. Property Rights. The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of federal, state local laws or regulations.
- K. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.
- L. Requiring an Individual Permit or an Alternative General Permit.
1. The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. Where the Director requires a permittee authorized to discharge under this permit to apply for an individual NPDES permit, the Director shall notify the permittee in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the permittee to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications shall be submitted to the appropriate Regional Office indicated in Part V.C. of this permit. The Director may grant additional time to submit the application upon request of the applicant. If a permittee fails to submit in a timely manner an individual NPDES permit application as required by the Director under this paragraph, then the applicability of this permit to the individual DPDES permittee is automatically terminated at the end of the day specified by the Director for application submittal.



2. Any permittee authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, the permittee shall submit an individual application in accordance with the requirements to 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to the Director at the address for the appropriate Regional Office indicated in Part V.C. of this permit. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by the permittee are adequate to support the request.
3. When an individual NPDES permit is issued to a permittee otherwise subject to this permit, or the permittee is authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated in the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

M. State/Tribal Environmental Laws.

1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state/tribal law or regulation under authority preserved by Section 510 of the Act.
2. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

N. Proper Operation and Maintenance. The permittee shall at all time properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also include adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of this permit.

O. Inspection and Entry. The permittee shall allow the Director or an authorized representative of EPA, the state/tribe, or, in the case of a construction site which discharges through a municipal separate storm sewer, an authorized representative of the municipal owner/operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and
3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).

- P. Permit Actions. This permit may be modified, revoked and re-issued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated non-compliance does not stay any permit condition.

#### Part VII. RE-OPENER CLAUSE

- A. If there is evidence indicating that the storm water discharges authorized by this permit cause, have a reasonable potential to cause or contribute to, a violation of a water quality standard, the permittee may be required to obtain an individual permit or an alternative general permit in accordance with Part I.C. of this permit, or the permit may be modified to include different limitations and/or requirements.
- B. Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.
- C. EPA may propose a modification to this permit after further discussions between the Agency and the Advisory Council on Historic Preservation for the protection of historic properties.

#### Part VIII. TERMINATION OF COVERAGE

- A. Notice of Termination. Permittees must submit a completed Notice of Termination (NOT) that is signed in accordance with Part VI.G. of this permit when one or more of the conditions contained in Part I.D.2. (Terminating Coverage) have been met at a construction project. The NOT form found in Addendum D will be used unless it has been replaced by a revised version by the Director. The Notice of Termination shall include the following information:
  1. The NPDES permit number for the storm water discharge identified by the Notice of Termination;
  2. An indication of whether the storm water discharges associated with construction activity have been eliminated (e.e., regulated discharges of storm water are being terminated) or the permittee is no longer an operator at the site;
  3. The name, address and telephone number of the permittee submitting the Notice of Termination;
  4. The name of the project and street address (or a description of location if no street address is available) of the construction site for which the notification is submitted;
  5. The latitude and longitude of the construction site; and
  6. The following certification, signed in accordance with Part VI.G. (signatory requirements) of this permit. For construction projects with more than one permittee and/or operator, the permittee need only make this certification for those portions of the construction site where the permittee was authorized under this permit and not for areas where the permittee was not an operator.

*"I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that authorized by a general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this notice of termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the Clean Water Act."*

For the purposes of this certification, elimination of storm water discharges associated with construction activity means that all disturbed soils at the portion of the construction site where the operator had control have been finally stabilized (as defined in Part IX.I.) And temporary erosion and sediment control measures have been removed or will be removed at an appropriate time to ensure final stabilization is maintained, or that all storm water discharges associated with construction activities from the identified site that are authorized by an NPDES general permit have otherwise been eliminated from the portion of the construction site where the operator had control.

**B. Addresses.**

1. All Notices of Termination, signed in accordance with Part VI.G. of this permit, are to be submitted using the form provided by the Director (or a photocopy thereof), the address specified on the NOT form.
2. **Special NOT Requirements for Projects on the Flathead Indian Reservation.**  
NOT's shall also be submitted to the Confederated Salish and Kootenai Tribes at the same time they are submitted to EPA. NOT's are to be sent to the address given in Part II.C.2.



## Part IX. DEFINITIONS

- A. **BEST MANAGEMENT PRACTICES (BMP's):** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMP's also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waster disposal, or drainage from raw material storage.
- B. **CONTROL MEASURE:** As used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the United States.
- C. **COMMENCEMENT OF CONSTRUCTION:** The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.
- D. **CWA:** The Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.
- E. **DIRECTOR:** The Regional Administrator of the Environmental Protection Agency or an authorized representative.
- F. **DISCHARGE:** When used without qualification means the discharge of a pollutant.
- G. **DISCHARGE OF STORM WATER ASSOCIATED WITH CONSTRUCTION ACTIVITY:** As used in this permit, refers to a discharge of pollutants in storm water runoff from areas where soil disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles, borrow areas, concrete truck washout, fueling), or other industrial storm water directly related to the construction process (e.g., concrete or asphalt batch plants) are located.
- H. **FACILITY OR ACTIVITY:** Any NPDES "point source" or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.
- I. **FINAL STABILIZATION:** Means either:
1. All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed. In some parts of the country, background native vegetation will cover less than 100% of the ground (e.g., arid areas, beaches). Establishing at least 70% of the natural cover of native vegetation meets the vegetative cover criteria for final stabilization (e.g., if the native vegetation covers 50% of the ground, 70% of the ground, 70% of 50% would require 35% total cover for final stabilization; on a beach with no natural vegetation, no stabilization is required); or
  2. For individual lots in residential construction by either: a) the homebuilder completing final stabilization as specified above, or b) the homebuilder establishing temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization. (Homeowners typically have an incentive to put in landscaping functionally equivalent to final stabilization as quick as possible to keep mud out of their homes and off their sidewalks and driveways.); or

3. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to "waters of the United States," and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria in 1. or 2. above.
- J. FLOW-WEIGHTED COMPOSITE SAMPLE: A composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of discharge.
- K. LARGE AND MEDIUM MUNICIPAL SEPARATE STORM SEWER SYSTEM: All municipal separate storm sewers that are either:
1. Located in an incorporate place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR 122); or
  2. Located in the counties with unincorporated urbanized populations of 100,00 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR 122); or
  3. Owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.
- L. NOI: Notice of Intent to be covered by this permit (see Part II of this permit).
- M. NOT: Notice of Termination (see Part VIII of this permit).
- N. OPERATOR: For the purposes of this permit and in the context of storm water associated with construction activity, any party associated with a construction project that meets either of the following two criteria.
1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
  2. The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions).
- This definition is provided to inform permittees of EPA's interpretation of how the regulatory definitions of "owner or operator" and "facility or activity" are applied to discharges of storm water associated with construction activity.
- O. OWNER OR OPERATOR: The owner or operator of any facility or activity subject to regulation under the NPDES program.

- P. POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.
- Q. POLLUTANT: As defined at 40 CFR 122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.
- R. RUNOFF COEFFICIENT: The fraction of total rainfall that will appear at the conveyance as runoff.
- S. STORM WATER: Storm water runoff, snow melt runoff, and surface runoff and drainage.
- T. STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITY: As defined at 40 CFR 122.26(b)(14) and incorporated here by reference. Most relevant to this permit is 40 CFR 122.26(b)(14)(x), which relates to construction activity including clearing, grading and excavation activities that result in the disturbance of five (5) or more acres of total land area, or are part of a larger common plan of development or sale.
- U. WATERS OF THE UNITED STATES:
1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
  2. All interstate waters, including interstate wetlands;
  3. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds in use, degradation, or destruction of which would affect or could affect interstate or foreign commerce, including any such waters:
    - a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
    - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
    - c. Which are used or could be used for industrial purposes by industries in interstate commerce.
  4. All impoundments of waters otherwise defined as waters of the United States under this definition;
  5. Tributaries of waters identified in paragraphs (a) through (d) of this definition;
  6. The territorial sea; and

7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs 1. through 6. of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds for steam electric generation stations per 40 CFR 423 which also meet the criteria of this definition) are not waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

## ADDENDUM A - ENDANGERED SPECIES

### I. Instructions for Applicants

#### A. Background

To meet its obligations under the Clean Water Act and the Endangered Species Act (ESA), and to promote those Acts' goals, the Environmental Protection Agency (EPA) is seeking to ensure the activities regulated by the Construction General Permit (CGP) are protective of endangered and threatened species and critical habitat. To ensure that those goals are met, applicants for CGP coverage are required under Part I.B.3.e. to assess the impacts of their storm water discharges and storm water discharge-related activities on federally-listed endangered and threatened species ("listed species") and designated critical habitat ("critical habitat") by following Steps One through Six listed below. EPA strongly recommends that applicants follow these steps at the earliest possible stage to ensure that measures to protect listed species and critical habitat are incorporated early in the planning process. At minimum, the procedures should be following when developing the storm water pollution prevention plan.

Permittees and applicants also have an independent ESA obligation to ensure that their activities do not result in any prohibited "takes" of listed species.<sup>1</sup> Many of the measures required in the CGP and in these instructions to protect species may also assist permittees in ensuring that their construction activities do not result in a prohibited take of species in violation of § 9 of the ESA. Applicants who plan construction activities in areas that harbor endangered and threatened species are advised to plan construction are advised to ensure that they are protected from potential takings liability under ESA § 9 by obtaining either an ESA § 10 permit or by requesting formal consultation under ESA § 7 (as described in more detail in Step Seven below). Applicants who seek protection from taking liability should be aware that it is possible that some specific construction activities may be too unrelated to storm water discharges to be afforded incidental take coverage through an ESA § 7 consultation that is performed to meet the eligibility requirements for CGP coverage. In such instances, applicants should apply for an ESA § 10 permit. Where applicants are not sure whether to pursue a § 10 permit or a § 7 consultation for takings protection, they should confer with the appropriate Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) office.

This permit provides for the possibility of multiple permittees at a construction site. Applicants should be aware that, in many cases, they can meet the permit eligibility requirements by relying on another operator's certification of eligibility under Part I.B.3.4.(2)(a), (b) or (c). This is allowed under Part I.B.3.e.(2)(d) of the permit. However, the other operator's certification must apply to the applicant's project area and must address the effects from the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat. By certifying eligibility under Part I.B.3.e.(2)(d), the applicant agrees to comply with any measures or controls upon which the other operator's certification under Part I.B.3.e.(2)(a), (b), or (c) was based. This situation will typically

---

<sup>1</sup> Section 9 of the ESA prohibits any person from "taking" a listed species (e.g., harassing or harming it) unless: 1) the taking authorized through an "incidental take statement" as part of the undergoing ESA § 7 formal consultation; 2) where an incidental take permit is obtained under ESA § 10 (which requires the development of a habitat conservation plan); or 3) where otherwise authorized or exempted under the ESA. This prohibition applies to all entities including private individuals, businesses, and governments.



occur where a developer or primary contractor, such as one for construction of a subdivision or industrial park, conducts a comprehensive assessment of effects on listed species and critical habitat for the entire construction project, certifies eligibility under Part I.B.3.e.(2)(a), (b) or (c), and that certification is relied upon by other operators (i.e., contractors) at the site. However, applicants that consider relying on another operator's certification should carefully review that certification along with any supporting information. If an applicant does not believe that the operator's certification provides adequate coverage for the applicant's storm water discharges and storm water discharge-related activities or for the applicant's particular project area, the applicant should provide its own independent certification under Part I.B.3.e.(2)(a), (b), or (c).

## **B. Procedures**

To receive coverage under the Construction General Permit, applicants must assess the potential effects of their storm water discharges and storm water discharge-related activities on listed species and their critical habitat. To make this assessment, applicant must follow the steps outlined below prior to completing and submitting Notice of Intent (NOI) form. Applicants who are able to certify eligibility under Parts I.B.3.e.(2)(b), (c), or (d) because of a previously issued ESA § 10 permit. A previously ESA § 7 consultation, or because the applicant's activities were already addressed in another operator's certification of eligibility may proceed directly to Step Six.

**Note:** EPA's new NOI form, which is included in Addendum C of this permit (published in the Federal Register on March 6, 1998, 63 FR 11253), requires that applicants provide detailed certification information on listed species. Previous versions of NOI forms should not be used any longer because they do not contain the specific certification provisions relating to listed species and critical habitats at construction projects. Use of the older NOI forms do **not** relieve applicants of their obligation to follow the procedures listed below to determine if their construction storm water discharges or storm water discharge-related activities meet permit eligibility requirements for the protection of listed species and critical habitat. By following these instructions, applicants will have sufficient information on listed species and critical habitat in order to complete the new NOI form (see Addendum C) and sign the certification statement.

### **Step One: Determine if the Construction Site is Found Within Designated Critical Habitat for Listed Species**

Some, but not all, listed species have designated critical habitat. Exact locations of such habitat is provided in the Service regulations at 50 CFR Parts 17 and 226. To determine if their construction site occurs within designated critical habitat, applicants should either:

- Contact the nearest Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) Office. A list of FWS and NMFS offices is found in Section II of this Addendum; or
- Contact the State or Tribal Natural Heritage Centers. These centers compile and disseminate information on federally-listed and other protected species. They frequently have the most current information on listed species and critical habitat. A list of these centers is provided in Section III of this Addendum; or
- Review those regulations (which can be found in many larger libraries).

If the construction site is not located in designated critical habitat, then the applicant does not need to consider impacts to critical habitat when following Steps Two through Six below. If the site is located within critical habitat, then the applicant must look at impacts to critical habitat when following Steps Two through Six. Note that many but not all measures imposed to protect listed species under these steps will also protect critical habitat. Thus, meeting the eligibility requirements of this permit may require measures to protect critical habitat that are separate from those to protect listed species.

**Step Two: Determine if Listed Species are Located in the County(ies) Where the Construction Activity Will Occur**

Section IV of the Addendum contains a county-by-county list of listed endangered and threatened species ("listed species"), and proposed endangered and threatened species ("proposed species"). Since the list was current as of September 1, 1997, applicants must also check with other sources for updated species and county information. These sources include: Sections II and III of this Addendum; EPA's Office of Wastewater Management's web page at <http://www.epa.gov/owm> where updates of the county-by-county list will be posted on a periodic basis; Federal Register Notices; State wildlife protection offices; a biologist or similar professional in the environmental field; or any other method which can be reasonably expected to provide this information. Applicants with construction projects located in EPA Region 2 and Region 6 can call the Storm Water General Permits hotline at (800) 245-6510 for further assistance, while applicants with projects located in EPA Regions 1, 3, 7, 8, 9 and 10 may contact the appropriate EPA Regional Office.

Where a facility is located in more than one county, the lists for all counties should be reviewed. Where a facility discharges into a water body which serves as a border between counties or which crosses a county line which is in the immediate vicinity of the point of discharge, applicants should also review the species list for the county which lies immediately downstream or is across the water body from the point of discharge.

After a review of the available information from the sources mentioned above, if no listed species are located in a facility's county, and the construction site is not located in a critical habitat as described under Step One, an applicant is eligible for CGP coverage without further inquiry into the presence of, or effect to, listed species. The applicant must check the appropriate certification item on the NOI form (Part I.B.3.e.(2)(a)).

Once the applicant has determined which listed species are located in his or her facility's county, the applicant must follow Step Three.

**Step Three: Determine if any Federally-Listed Endangered and Threatened Species May Be Present in the Project Area**

The project area consists of:

- The areas on the construction site where storm water discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, site development, or other ground disturbance activities occur) and the immediate vicinity.

**Example(s)**

1. Where bald eagles nest in a tree that is on or bordering a construction site and could be disturbed by the construction activity.
2. Where grading causes storm water to flow into a small wetland or other habitat that is on the site which contains listed species.



- The areas where storm water discharges flow from the construction site to the point of discharge into receiving waters.

**Example(s)**

1. Where storm water flows into a ditch, swale, or gully which leads to receiving waters and where listed species (such as amphibians) are found in the ditch, swale, or gully.
- The areas where storm water from construction activities discharge into receiving waters and the areas in the immediate vicinity of the point of discharge.

**Example(s)**

1. Where storm water from construction activities discharges into a stream segment that is known to harbor listed aquatic species.
- The areas where storm water BMP's will be constructed and operated, including any areas where storm water flows to and from BMP's.

**Example(s)**

1. Where a storm water retention pond would be built.

The project area will vary with the size and structure of the construction activity, the nature and quantity of the storm water discharges, the storm water discharge-related activities and the type of receiving water. Given the number of construction activities potentially covered by the CGP, no specific method to determine whether listed species may be located in the project area is required for coverage under the CGP. Instead, applicants should use the method which allows them to determine, to the best of their knowledge, whether listed species are located in their project area. These methods include:

- Conducting Visual Inspections. This method may be particularly suitable for construction sites that are smaller in size or located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no natural habitat, or for construction activities that discharge directly into municipal storm water collection systems.
- Contacting the Nearest State or Tribal Wildlife Agency, the Fish and Wildlife Service (FWS), or the National Marine Fisheries Service (NMFS). Many endangered and threatened species are found in well-defined areas or habitats. Such information is frequently known to state, tribal, or federal wildlife agencies. A list of FWS and NMFS offices is provided in Section II of this Addendum below.
- Contacting Local/Regional Conservation Groups or the State or Tribal Natural Heritage Centers (see Section III of this Addendum). State and local conservation groups may have location specific listed species information. The Natural Heritage Centers inventory species and their locations and maintain lists of sightings and habitats.
- Submitting a Data Request to a Natural Heritage Center. Many of these centers will provide site-specific information on the presence of listed species in a project area. Some of these centers will charge a fee for researching data requests.

- Conducting a Formal Biological Survey. Larger construction sites with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether species are located in the project area and whether they are likely adverse effects. Biological surveys are frequently performed by environmental consulting firms. A biological survey can be used to follow Steps Four through Six of these instructions.
- Conducting an Environmental Assessment Under the National Environmental Policy Act (NEPA). Some construction activities may require environmental assessments under NEPA. Such assessments may indicate if listed species are in the project area. Coverage under the CGP does not trigger such an assessment because the permit does not regulate any dischargers subject to New Source Performance Standards under Section 306 of the Clean Water Act, and is thus statutorily exempted from NEPA. See CWA § 511(c). However, some construction activities might require review under NEPA because of federal funding or other federal involvement on the project.

If no species are found in the project area, an applicant is eligible for CGP coverage. Applicants must provide the necessary certification on the NOI form. If listed species are found in the project area, applicants must indicate the location and nature of this presence in the storm water pollution prevention plan and follow Step Four.

**Step Four: Determine if Listed Species or Critical Habitat are Likely to be Adversely Affected by the Construction Activity's Storm Water Discharges or Storm Water Discharge-Related Activities.**

To receive CGP coverage, applicants must assess whether their storm water discharges or storm water discharge-related activities are likely to adversely affect listed species or critical habitat. Storm water discharge-related activities include:

- activities which cause, contribute to, or result in point source storm water pollutant discharges, including but not limited to excavation, site development, grading, and other surface disturbance activities; and
- measures to control storm water discharges, including the siting, construction, operation of best management practices (BMP's) to control, reduce or prevent storm water pollution.

Potential adverse effects from storm water discharges and storm water discharge-related activities include:

- Hydrological. Storm water discharges may cause siltation, sedimentation or induce other changes in receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water-discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely. Construction activity itself may also alter drainage patterns on a site where construction occurs which can impact listed species or critical habitat.
- Habitat. Excavation, site development, grading, and other surface disturbance activities from construction activities, including the installation or placement of storm water BMP's, may adversely affect listed species or their habitat. Storm water may drain or inundate listed species habitat.

- Toxicity. In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. If the applicant is having difficulty in determining whether his/her project is likely to adversely effect a listed species or critical habitat, then the appropriate office of the FWS, NMFS or Natural Heritage Center listed in Sections II and III of this Addendum should be contact for assistance. If adverse effects are not likely, then the applicant should make the appropriate certification on the NOI form and apply for coverage under the permit. If adverse effects are likely, applicants must follow Step Five.

**Step Five: Determine if Measures can be Implemented to Avoid any adverse Effects**

If an applicant makes a preliminary determination that adverse effects are likely, it can still receive coverage under Part I.B.3.e.(2)(a) of the CGP if appropriate measures are undertaken to avoid or eliminate the likelihood of adverse effects prior to applying for permit coverage. These measures may involve relatively simple changes to construction activities such as re-routing a storm water discharge to bypass an area where species are located, relocating BMP's, or by changing the "footprint" of the construction activity. Applicants may wish to contact the FWS and/or NMFS to see what appropriate measures might be suitable to avoid or eliminate the likelihood of adverse impacts to listed species and/or critical habitat. (See 50 CFR 402.13(b)) This can entail the initiation of informal consultation with the FWS and/or NMFS which is described in more detail in Step Six.

If applicants adopt measures to avoid or eliminate adverse effects, they must continue to abide by those measures during the course of permit coverage. These measures must be described in the storm water pollution prevention plan and may be enforceable as permit conditions. If appropriate measures to avoid the likelihood of adverse effects are not available to the applicant, the applicant must follow Step Six.

**Step Six: Determine if the Eligibility Requirements of Part I.B.3.e.(2)(b)-(d) can be Met**

Where adverse effects are likely, the applicant must contact the EPA and FWS/NMFS. Applicants may still be eligible for CGP coverage if any likely adverse effects can be addressed through meeting the criteria of Part I.B.3.e.(2)(b)-(d) of the permit. These criteria are as follows:

**1. An ESA Section 7 Consultation is Performed for the Applicant's Activity (see Part I.B.3.e.(2)(b))**

Formal or informal ESA § 7 consultation is performed with the FWA and/or NMFS which addresses the effects of the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat. The formal consultation must result in either a "no jeopardy opinion" or a "jeopardy opinion" that identifies reasonable and prudent alternatives to avoid jeopardy which are to be implemented by the applicant. The informal consultation must result in a written concurrence by the Service(s) on a finding that the applicant's storm water discharge(s) and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat (for informal consultation, see 50 CFR 402.13).

Most consultations are accomplished through informal consultation. By the terms of this permit, EPA has automatically designated applicants as non-federal representatives for the purpose of conducting informal consultations. See Part I.B.3.e.(5) and 50 CFR 402.08 and 402.13. When conducting formal consultations. See Part I.B.3.e.(5) and 50 CFR 402.08 and 402.13. When conducting informal ESA § consultations as a non-federal representative, applicants must follow the procedures found in 50 CFR 402 of the ESA regulations.

Applicants must also notify EPA and the Services of their intention and agreement to conduct consultation as a non-federal representative. Consultation may occur in the context of another federal action at the construction site (e.g., where ESA § 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project or where a NEPA review is performed for the project which incorporates a Section 7 consultation). Any terms and conditions developed through consultations to protect listed species and critical habitat must be incorporated into the SWPPP. As noted above, applicants may, if they wish, initiate consultation with the Services at Step Five.

Whether ESA § 7 consultation must be performed with either the FWS, NMFS or both Services depends on the listed species which may be affected by the applicant's activity. In general, NMFS has jurisdiction over marine, estuarine, and anadromous species. Applicants should also be aware that while formal § 7 consultation provides protection from incidental takings liability, informal consultation does not.

2. An Incidental Taking Permit Under Section 10 of the ESA is Issued for the Applicants Activity (see Part I.B.3.e.(2)(c))

The applicant's construction activities are authorized through the issuance of a permit under § 10 of the ESA and that authorization addresses the effects of the applicant's storm water discharge(s) and storm water discharge-related activities on listed species and critical habitat. Applicants must follow FWS and/or NMFS procedures when applying for an ESA Section 10 permit (see 50 CFR § 17.22(b)(1) (FWS) and § 222.22 (NMFS)). Application instructions for Section 10 permits for NMFS species can be obtained by 1) accessing the "Office of Protected Resources" sector of the NMFS Home Page at <http://www.nmfs.gov> or by contacting the National Marine Fisheries Service, Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, Maryland 20910. Telephone: (301) 713-1401, Fax: (301) 713-0376

3. The Applicant is Covered Under the Eligibility Certification of Another Operator for the Project Area (see Part I.B.3.e.(2)(d))

The applicant's storm water discharges and storm water discharge-related activities were already addressed in another operator's certification of eligibility under Part I.B.3.e.(2)(b) or (c) which also included the applicant's project area. By certifying eligibility under Part I.B.3.e.(2)(d), the applicant agrees to comply with any measures or controls upon which the other operator's certification under Part I.B.3.e.(2)(a), (b) or (c) was based. Certification under Part I.B.3.e.(s)(d) is discussed in more detail in Section I.A. of this addendum.

The applicant must comply with any terms and conditions imposed under the eligibility requirements of paragraphs I.B.3.e.(2)(a), (b), (c), and (d) to ensure that its storm water discharges and storm water discharge-related activities are protective of listed species and/or critical habitat. Such terms and conditions must be incorporated in the project's SWPPP. If the eligibility requirements of Part I.B.3.e.(2)(a)-(d) cannot be met, then the applicant may not receive coverage under the CGP. Applicants should then consider applying to EPA for individual permit.



## II LIST OF FISH AND WILDLIFE SERVICE OFFICES

## A. U.S. FISH AND WILDLIFE SERVICE OFFICES APPLICABLE TO THIS PERMIT

**National Website For Endangered Species Information**

Endangered Species Home Page:  
<http://www.fws.gov/~r9endspp/endspp.html>

**Regional, State, Field and Project Offices Applicable to this Permit**

<b>Region Six - Regional Office</b>	
Division Chief, Endangered Species U.S. Fish & Wildlife Service ARD-Ecological Services P.O. Box 25486, DFC Denver, CO 80225	
<b>State, Field, and Project Offices in Montana</b>	
Field Supervisor U.S. Fish & Wildlife Service Montana Field Office 100 N. Park, Suite 320 Helena, MT 59601	Sub-Office Supervisor U.S. Fish & Wildlife Service Billings Sub-Office 2900 - 4 <sup>th</sup> Ave. North-Room 301 Billings, MT 59101
Sub-Office Supervisor U.S. Fish & Wildlife Service Kalispell Sub-Office 780 Creston Hatchery Road Kalispell, MT 59901	Grizzly Bear Recovery Coordinator U.S. Fish & Wildlife Service Forestry Sciences Lab University of Montana Missoula, MT 59812

## II NATURAL HERITAGE CENTERS

The Natural Heritage Network comprises 85 biodiversity data centers throughout the Western Hemisphere. These centers collect, organize and share data relating to endangered and threatened species and habitat. The network was developed to inform land-use decisions for developers, corporations, conservationists, and government agencies and is also consulted for research and educational purposes. The centers maintain a Natural Heritage Network Control Server Website (<http://www.heritage.tnc.org>) which provides website and other access to a large number of specific biodiversity centers. The center located in Montana is listed below:

Montana Natural Heritage Program  
 State Library Building  
 1515 E. 6<sup>th</sup> Ave.  
 Helena, MT 59620  
 406-444-3009 Fax: 406-444-0581  
 Internet: [mtnhp@nris.msl.mt.gov](mailto:mtnhp@nris.msl.mt.gov)

Homepage/World Wide Web: <http://nris.msl.mt.gov/mtnhp/nhp-dir.html>

INCC  
IV.

## COUNTY LIST OF ENDANGERED AND THREATENED SPECIES IN MONTANA

[The following list identifies federally-listed or proposed U.S. species by state and county. It has been updated through September 1, 1997.]

NOTE: Species listed below with a status of both E and T are generally either endangered or threatened within the specified county. The assignment of two status designations for a species in a specific county is a function of the data set used to develop this list. For purposes of this permit, however, the obligation to assess the impact of storm water discharges on listed species does not vary based on which of the two statuses (e.g., endangered threatened) is assigned (see Addendum A Instructions). Designation of critical habitat (CH) does not mean that the county constitutes critical habitat, only that critical habitat has been designated for that species (see Addendum A Instructions).

State/County	Group Name	Inverse Name	Scientific Name	Action/ Status
<b>Montana</b>				
BEAVERHEAD . . . .	BIRDS . . . .	CRANE, WHOOPING . . . . .	<i>Grus americana</i>	L,E,CH
		EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE . . . . .	<i>Falco peregrinus</i>	L,E
	MAMMALS . . . .	WOLF GRAY . . . . .	<i>Canis lupus</i>	L,E,T,CH
BIG HORN . . . . .	BIRDS . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE . . . . .	<i>Falco peregrinus</i>	L,E
	MAMMALS . . . .	FERRET, BLACK-FOOTED . . . . .	<i>Mustela nigripes</i>	L,E
BLAINE . . . . .	FISHES . . . .	STURGEON, PALLID . . . . .	<i>Scaphirhynchus albus</i>	L,E
	MAMMALS . . . .	FERRET, BLACK-FOOTED . . . . .	<i>Mustela nigripes</i>	L,E
BROADWATER . . . .	BIRDS . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
CARBON . . . . .	BIRDS . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
		BEAR, GRIZZLY . . . . .	<i>Ursus arctor (=U.a. horribilis)</i>	L,T
	MAMMALS . . . .	WOLF, GRAY . . . . .	<i>Canis lupus</i>	L,E,T,CH
CARTER . . . . .	BIRDS . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
	MAMMALS . . . .	FERRET, BLACK-FOOTED . . . . .	<i>Mustela nigripes</i>	L,E
CASCADE . . . . .	BIRDS . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE . . . . .	<i>Falco peregrinus</i>	L,E
CHOUTEAU . . . . .	FISHES . . . .	STURGEON, PALLID . . . . .	<i>Scaphirhynchus albus</i>	L,E
CUSTER . . . . .	BIRDS . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
	FISHES . . . .	STURGEON, PALLID . . . . .	<i>Scaphirhynchus albus</i>	L,E
	MAMMALS . . . .	FERRET, BLACK-FOOTED . . . . .	<i>Mustela nigripes</i>	L,E
DANIELS . . . . .	BIRDS . . . .	CRANE, WHOOPING . . . . .	<i>Grus americana</i>	L,E,CH
DAWSON . . . . .	BIRDS . . . .	CRANE, WHOOPING . . . . .	<i>Grus americana</i>	L,E,CH
		EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
	FISHES . . . .	STURGEON, PALLID . . . . .	<i>Scaphirhynchus albus</i>	L,E
FALLON . . . . .	BIRDS . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE . . . . .	<i>Falco peregrinus</i>	L,E

FERGUS . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
	FISHES . . . . .	STURGEON, PALLID . . . . .	<i>Scaphirhynchus albus</i>	L,E
FLATHEAD . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
	FISHES . . . . .	TROUT, BULL (COLUMBIA RIVER POPULATION)	<i>Salvelinus confluentus</i>	P,T
	MAMMALS . . . . .	BEAR, GRIZZLY . . . . .	<i>Ursus arctos</i> (=U.a.horribillits)	L,T
		WOLF, GRAY . . . . .	<i>Canis lupus</i>	L,E,T,CH
GALLATIN . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
	MAMMALS . . . . .	BEAR, GRIZZLY . . . . .	<i>Ursus arctos</i> (=U.a.horribillits)	L,T
		WOLF, GRAY . . . . .	<i>Canis lupus</i>	L,T,CH
GARFIELD . . . . .	BIRDS . . . . .	FALCON, PEREGRINE . . . . .	<i>Falco peregrinus</i>	L,E
		PLOVER, PIPING . . . . .	<i>Charadrius melodus</i>	L,E,T
		TERN, INTERIOR (POPULATION) LEAST . . . . .	<i>Sterna antillarum</i>	L,E
	FISHES . . . . .	STURGEON, PALLID . . . . .	<i>Scaphirhynchus albus</i>	L,E
GLACIER . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
	MAMMALS . . . . .	BEAR, GRIZZLY . . . . .	<i>Ursus arctos</i> (=U.a.horribillits)	L,T
		WOLF, GRAY . . . . .	<i>Canis lupus</i>	L,E,T,CH
GOLDEN VALLEY . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE . . . . .	<i>Falco peregrinus</i>	L,E
GRANITE . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
	FISHES . . . . .	TROUT, BULL (COLUMBIA RIVER POPULATION)	<i>Salvelinus confluentus</i>	P,T
HILL . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE . . . . .	<i>Falco peregrinus</i>	L,E
				L,T
JEFFERSON . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
				L,E
JUDITH BASIN . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE . . . . .	<i>Falco peregrinus</i>	L,E
LAKE . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
	FISHES . . . . .	FALCON, PEREGRINE . . . . .	<i>Falco peregrinus</i>	L,E
		TROUT, BULL (COLUMBIA RIVER POPULATION)	<i>Salvelinus confluentus</i>	P,T
		BEAR, GRIZZLY . . . . .	<i>Ursus arctos</i> (=U.a.horribillits)	L,T
	MAMMALS . . . . .	WOLF, GRAY . . . . .	<i>Canis lupus</i>	L,E,T,CH
	PLANTS . . . . .	HOWELLIA, WATER . . . . .	<i>Howellia aquatilis</i>	L,T
LEWIS AND CLARK . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
	MAMMALS . . . . .	BEAR, GRIZZLY . . . . .	<i>Ursus arctos</i> (=U.a.horribillits)	L,T
		WOLF, GRAY . . . . .	<i>Canis lupus</i>	L,E,T
LIBERTY . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T



LINCOLN	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
	FISHES	STURGEON, WHITE (KOOTENAI RIVER POPULATION)	<i>Acipenser transmontanus</i>	L,E
		TROUT, BULL (COLUMBIA RIVER POPULATION)	<i>Salvelinus confluentus</i>	P,T
	MAMMALS	BEAR, GRIZZLY	<i>Ursus arctos</i> (=U.a.horribilis)	L,T
		WOLF, GRAY	<i>Canis lupus</i>	L,E,T,CH
MADISON	BIRDS	CRANE, WHOOPING	<i>Grus americana</i>	L,E,CH
		EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
	MAMMALS	BEAR, GRIZZLY	<i>Ursus arctos</i> (=U.a.horribilis)	L,T
		WOLF, GRAY	<i>Canis lupus</i>	L,E,T,CH
MCCONE	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
		PLOVER, PIPING	<i>Charadrius melodus</i>	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	<i>Sterna antillarum</i>	L,E
	FISHES	STURGEON, PALLID	<i>Scaphirhynchus albus</i>	L,E
MEAGHER	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE	<i>Falco peregrinus</i>	L,E
MINERAL	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION)	<i>Salvelinus confluentus</i>	P,T
	MAMMALS	BEAR, GRIZZLY	<i>Ursus arctos</i> (=U.a.horribilis)	L,T
MISSOULA	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION)	<i>Salvelinus confluentus</i>	P,T
	MAMMALS	BEAR, GRIZZLY	<i>Ursus arctos</i> (=U.a.horribilis)	L,T
		WOLF, GRAY	<i>Canis lupus</i>	L,E,T,CH
	PLANTS	HOWELLIA, WATER	<i>Howellia aquatilis</i>	L,T
MUSSELSHELL	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE	<i>Falco peregrinus</i>	L,E
PARK	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
	MAMMALS	BEAR, GRIZZLY	<i>Ursus arctos</i> (=U.a.horribilis)	L,T
		WOLF, GRAY	<i>Canis lupus</i>	L,E,T,CH
PETROLEUM	FISHES	STURGEON, PALLID	<i>Scaphirhynchus albus</i>	L,E
PHILLIPS	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
		PLOVER, PIPING	<i>Charadrius melodus</i>	L,E,T
	FISHES	STURGEON, PALLID	<i>Scaphirhynchus albus</i>	L,E
	MAMMALS	FERRET, BLACK-FOOTED	<i>Mustela nigripes</i>	L,E
PONDERA	MAMMALS	BEAR, GRIZZLY	<i>Ursus arctos</i> (=U.a.horribilis)	L,T
		WOLF, GRAY	<i>Canis lupus</i>	L,E,T,CH
POWDER RIVER	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE	<i>Falco peregrinus</i>	L,E
	MAMMALS	FERRET, BLACK-FOOTED	<i>Mustela nigripes</i>	L,E

POWELL	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION)	<i>Salvelinus confluentus</i>	P,T
	MAMMALS	BEAR, GRIZZLY	<i>Ursus arctos</i> (=U.a.horribilis)	L,T
		WOLF, GRAY	<i>Canis lupus</i>	L,E,T,CH
PRAIRIE	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
		PLOVER, PIPING	<i>Charadrius melodus</i>	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	<i>Sterna antillarum</i>	L,E
	FISHES	STURGEON, PALLID	<i>Scaphirhynchus albus</i>	L,E
RAVALLI	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
		TROUT, BULL (COLUMBIA RIVER POPULATION)	<i>Salvelinus confluentus</i>	P,T
RICHLAND	BIRDS	CRANE, WHOOPING	<i>Grus americana</i>	L,E,CH
		PLOVER, PIPING	<i>Charadrius melodus</i>	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	<i>Sterna antillarum</i>	L,E
	FISHES	STURGEON, PALLID	<i>Scaphirhynchus albus</i>	L,E
ROOSEVELT	BIRDS	CRANE, WHOOPING	<i>Grus americana</i>	L,E,CH
		PLOVER, PIPING	<i>Charadrius melodus</i>	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	<i>Sterna antillarum</i>	L,E
	FISHES	STURGEON, PALLID	<i>Scaphirhynchus albus</i>	L,E
ROSEBUD	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
	FISHES	STURGEON, PALLID	<i>Scaphirhynchus albus</i>	L,E
	MAMMALS	FERRET, BLACK-FOOTED	<i>Mustela nigripes</i>	L,E
SANDERS	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION)	<i>Salvelinus confluentus</i>	P,T
	MAMMALS	BEAR, GRIZZLY	<i>Ursus arctos</i> (=U.a.horribilis)	L,T
		WOLF, GRAY	<i>Canis lupus</i>	L,E,T,CH
SHERIDAN	BIRDS	CRANE, WHOOPING	<i>Grus americana</i>	L,E,CH
		EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE	<i>Falco peregrinus</i>	L,E
		PLOVER, PIPING	<i>Charadrius melodus</i>	L,E,T
SILVER BOW	MAMMALS	WOLF, GRAY	<i>Canis lupus</i>	L,E,T,CH
STILLWATER	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
	MAMMALS	BEAR, GRIZZLY	<i>Ursus arctos</i> (=U.a.horribilis)	L,T
		WOLF, GRAY	<i>Canis lupus</i>	L,E,T
SWEET GRASS	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
	MAMMALS	BEAR, GRIZZLY	<i>Ursus arctos</i> (=U.a.horribilis)	L,T
		WOLF, GRAY	<i>Canis lupus</i>	L,E,T,CH
TETON	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
	MAMMALS	BEAR, GRIZZLY	<i>Ursus arctos</i> (=U.a.horribilis)	L,T
		WOLF, GRAY	<i>Canis lupus</i>	L,E,T,CH

TOOLE . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE . . . . .	<i>Falco peregrinus</i>	L,E
TREASURE . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
	FISHES . . . . .	STURGEON, PALLID . . . . .	<i>Scaphirtynchus albus</i>	L,E
	MAMMALS . . . . .	FERRET, BLACK-FOOTED . . . . .	<i>Mustela nigripes</i>	L,E
VALLEY . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
		PLOVER, PIPING . . . . .	<i>Charadrius melodus</i>	L,E,T
		TERN, INTERIOR (POPULATION) LEAST . . . . .	<i>Mustela nigripes</i>	L,E
	FISHES . . . . .	STURGEON, PALLID . . . . .	<i>Scaphirtynchus albus</i>	L,E
WHEATLAND . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE . . . . .	<i>Falco peregrinus</i>	L,E
WIBAUX . . . . .	BIRDS . . . . .	CRANE, WHOOPING . . . . .	<i>Grus americana</i>	L,E,CH
YELLOWSTONE . . . . .	BIRDS . . . . .	EAGLE, BALD . . . . .	<i>Haliaeetus leucocephalus</i>	L,T

## ADDENDUM B - HISTORIC PROPERTIES (RESERVED)

Instructions related to historic preservation have not been included in the permit at this time. EPA may modify the permit to include such provisions at a later date. This does not relieve applicants or permittees of their responsibility to comply with applicable state, tribal or local laws for the protection of historic properties.

NPDES  
FORMUnited States Environmental Protection Agency  
Washington, DC 20460
**Notice of Intent (NOI) for Storm Water Discharges Associated with  
CONSTRUCTION ACTIVITY Under a NPDES General Permit**

Submission of this Notice of Intent constitutes notice that the party identified in Section I of this form intends to be authorized by a NPDES permit issued for storm water discharges associated with construction activity in the State/Indian Country Land identified in Section II of this form. Submission of this Notice of Intent also constitutes notice that the party identified in Section I of this form meets the eligibility requirements in Part I.B. of the general permit (including those related to protection of endangered species determined through the procedures in Addendum A of the general permit), understands that continued authorization to discharge is contingent on maintaining permit eligibility, and that implementation of the Storm Water Pollution Prevention Plan required under Part IV of the general permit will begin at the time the permittee commences work on the construction project identified in Section II below. IN ORDER TO OBTAIN AUTHORIZATION, ALL INFORMATION REQUESTED MUST BE INCLUDED ON THIS FORM. SEE INSTRUCTIONS ON BACK OF FORM.

**I. Owner/Operator (Applicant) Information**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Status of Owner/Operator: ☐

**II. Project/Site Information**

Project Name: \_\_\_\_\_  
 Project Address/Location: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Latitude: \_\_\_\_\_ Longitude: \_\_\_\_\_ County: \_\_\_\_\_

Is the facility located on Indian  
Country Lands?  
 Yes ☐ No ☐

Has the Storm Water Pollution Prevention Plan (SWPPP) been prepared? Yes ☐ No ☐

Optional: Address of location of SWPPP for viewing ☐ Address in Section I above ☐ Address in Section II above ☐ Other address (if known) below:

SWPPP Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Name of Receiving Water: \_\_\_\_\_

Estimated Construction Start Date \_\_\_\_\_ Estimated Completion Date \_\_\_\_\_  
 Month Day Year Month Day Year

Estimate of area to be disturbed (to nearest acre): \_\_\_\_\_

Estimate of Likelihood of Discharge (choose only one):

1. ☐ Unlikely 3. ☐ Once per week 5. ☐ Continual  
 2. ☐ Once per month 4. ☐ Once per day

Based on instruction provided in Addendum A of the permit, are there any listed endangered or threatened species, or designated critical habitat in the project area?

Yes ☐ No ☐

I have satisfied permit eligibility with regard to protection of endangered species through the indicated section of Part I.B.3.e.(2) of the permit (check one or more boxes):

(a) ☐ (b) ☐ (c) ☐ (d) ☐

**III. Certification**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage this system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_  
 Signature: \_\_\_\_\_

**Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity to be Covered Under a NPDES Permit****Who Must File a Notice of Intent Form**

Under the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et seq.; the Act), except as provided by Part I.B.3 the permit, Federal law prohibits discharges of pollutants in storm water from construction activities without a National Pollutant Discharge Elimination System Permit. Operator(s) of construction sites where 5 or more acres are disturbed, smaller sites that are part of a larger common plan of development or sale where there is a cumulative disturbance of at least 5 acres, or any site designated by the Director, must submit an NOI to obtain coverage under an NPDES Storm Water Construction General Permit. If you have questions about whether you need a permit under the NPDES Storm Water program, or if you need information as to whether a particular program is administered by EPA or a State agency, write to or telephone the Notice of Intent Processing Center at (703) 931-3230.

**Where to File NOI Form**

NOIs must be sent to the following address:

Storm Water Notice of Intent (4203)  
USEPA  
401 M. Street, SW  
Washington, D.C. 20460

Do not send Storm Water Pollution Prevention Plans (SWPPPs) to the above address. For overnight/express delivery of NOIs, please include the room number 2104 Northeast Mall and phone number (202) 260-9541 in the address.

**When to File**

This form must be filed at least 48 hours before construction begins.

**Completing the Form**

**OBTAIN AND READ A COPY OF THE APPROPRIATE EPA STORM WATER CONSTRUCTION GENERAL PERMIT FOR YOUR AREA.** To complete this form, type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks (abbreviate if necessary to stay within the number of characters allowed for each item). Use one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions on this form, call the Notice of Intent Processing Center at (703) 931-3230.

**Section I. Facility Owner/Operator (Applicant) Information**

Provide the legal name, mailing address, and telephone number of the person, firm, public organization, or any other entity that meets either of the following two criteria: (1) they have operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or (2) they have the day-to-day operational control of those activities at the project necessary to ensure compliance with SWPPP requirements or other permit conditions. Each person that meets either of these criteria must file this form. Do not use a colloquial name. Correspondence for the permit will be sent to this address.

Enter the appropriate letter to indicate the legal status of the owner/operator of the project: F = Federal; S = State; M = Public (other than federal or state); P = Private.

**Section II. Project/Site Information**

Enter the official or legal name and complete street address, including city, county, state, zip code, and phone number of the project or site. If it lacks a street address, indicate with a general statement the location of the site (e.g., Intersection of State Highways 61 and 34). Complete site information must be provided for permit coverage to be granted.

The applicant must also provide the latitude and longitude of the facility in degrees, minutes, and seconds to the nearest 15 seconds. The latitude and longitude of your facility can be located on USGS quadrangle maps. Quadrangle maps can be obtained by calling 1-800 USA-MAPS. Longitude and latitude may also be obtained at the Census Bureau Internet site: <http://www.census.gov/cgi-bin/gazetteer>.

Latitude and longitude for a facility in decimal form must be converted to degrees, minutes and seconds for proper entry on the NOI form. To convert decimal latitude or longitude to degrees, minutes, and seconds, follow the steps in the following example.

Convert decimal latitude 45.1234567 to degrees, minutes, and seconds.

- 1) The numbers to the left of the decimal point are degrees.
- 2) To obtain minutes, multiply the first four numbers to the right of the decimal point by 0.006.  $1234 \times 0.006 = 7.404$ .
- 3) The numbers to the left of the decimal point in the result obtained in step 2 are the minutes: 7.
- 4) To obtain seconds, multiply the remaining three numbers to the right of the decimal from the result in step 2 by 0.06:  $404 \times 0.06 = 24.24$ . Since the numbers to the right of the decimal point are not used, the result is 24".
- 5) The conversion for 45.1234  $\approx 45^{\circ} 7' 24''$ .

Indicate whether the project is on Indian Country Lands.

Indicate if the Storm Water Pollution Prevention Plan (SWPPP) has been developed. Refer to Part IV of the general permit for information on SWPPPs. To be eligible for coverage, a SWPPP must have been prepared.

Optional: Provide the address and phone number where the SWPPP can be viewed if different from addresses previously given. Check appropriate box.

Enter the name of the closest water body which receives the project's construction storm water discharge.

Enter the estimated construction start and completion dates using four digits for the year (i.e. 05/27/1998).

Enter the estimated area to be disturbed including but not limited to: grubbing, excavation, grading, and utilities and infrastructure installation. Indicate to the nearest acre; if less than 1 acre, enter "1." Note: 1 acre = 43,560 sq. ft.

Indicate your best estimate of the likelihood of storm water discharges from the project. EPA recognizes that actual discharges may differ from this estimate due to unforeseen or chance circumstances.

Indicate if there are any listed endangered or threatened species, or designated critical habitat in the project area.

Indicate which Part of the permit that the applicant is eligible with regard to protection of endangered or threatened species, or designated critical habitat.

**Section III. Certification**

Federal States provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner of the proprietor, or

For a municipality, state, federal, or other public facility: by either a principal executive or ranking elected official. An unsigned or undated NOI form will not be granted permit coverage.

**Paperwork Reduction Act Notice**

Public reporting burden for this application is estimated to average 3.7 hours. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Director, OPPE Regulatory Information Division (2137), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Include the OMB control number on any correspondence. Do not send the completed form to this address.



NPDES  
FORMUnited States Environmental Protection Agency  
Washington, DC 20460

# Notice of Termination (NOT) of Coverage Under a NPDES General Permit for Storm Water Discharges Associated with Industrial Activity

Submission of this Notice of Termination constitutes notice that the party identified in Section II of this form is no longer authorized to discharge storm water associated with industrial activity under the NPDES program. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.

## I. Permit Information

NPDES Storm Water  
General Permit Number: \_\_\_\_\_Check Here If You are No Longer  
the Operator of the Facility: ☐Check Here if the Storm Water  
Discharge is Being Terminated: ☐

## II. Facility Operator Information

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

## III. Facility/Site Location Information

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

Latitude: \_\_\_\_\_ Longitude: \_\_\_\_\_ Quarter: \_\_\_\_\_ Section: \_\_\_\_\_ Township: \_\_\_\_\_ Range: \_\_\_\_\_

IV. Certification: I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by a NPDES general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the Clean Water Act.

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_

## Instructions for Completing Notice of Termination (NOT) Form

## Who May File a Notice of Termination (NOT) Form

Permittees who are presently covered under an EPA-issued National Pollutant Discharge Elimination System (NPDES) General Permit (including the 1995 Multi-Sector Permit) for Storm Water Discharges Associated with Industrial Activity may submit a Notice of Termination (NOT) form when their facilities no longer have any storm water discharges associated with industrial activity as defined in the storm water regulations at 40 CFR 122.26(b)(14), or when they are no longer the operator of the facilities.

For construction activities, elimination of all storm water discharges associated with industrial activity occurs when disturbed soils at the construction site have been finally stabilized and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time, or that all storm water discharges associated with industrial activity from the construction site that are authorized by a NPDES general permit have otherwise been eliminated. Final stabilization means that all soil-disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

## Where to File NOT Form

Send this form to the following address:

Storm Water Notice of Termination (4203)  
401 M Street, S.W.  
Washington, DC 20460

## Completing the Form

Type or print, using upper-case letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use only one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions about this form, telephone or write the Notice of Intent Processing Center at (703) 931-3230.



Instructions - EPA Form 3510-7  
Notice of Termination (NOT) of Coverage Under The NPDES General Permit  
for Storm Water Discharges Associated With Industrial Activity

**Section I Permit Information**

Enter the existing NPDES Storm Water General Permit number assigned to the facility or site identified in Section III. If you do not know the permit number, telephone or write your EPA Regional storm water contact person.

Indicate your reason for submitting this Notice of Termination by checking the appropriate box:

If there has been a change of operator and you are no longer the operator of the facility or site identified in Section III, check the corresponding box.

If all storm water discharges at the facility or site identified in Section III have been terminated, check the corresponding box.

**Section II Facility Operator Information**

Give the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same name as the facility. The operator of the facility is the legal entity which controls the facility's operation, rather than the plant or site manager. Do not use a colloquial name. Enter the complete address and telephone number of the operator.

**Section III Facility/Site Location Information**

Enter the facility's or site's official or legal name and complete address, including city, state and ZIP code. If the facility lacks a street address, indicate the state, the latitude and longitude of the facility to the nearest 15 seconds, or the quarter, section, township, and range (to the nearest quarter section) of the approximate center of the site.

**Section IV Certification**

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

*For a corporation:* by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

*For a partnership or sole proprietorship:* by a general partner or the proprietor; or

*For a municipality, State, Federal, or other public facility:* by either a principal executive officer or ranking elected official.

**Paperwork Reduction Act Notice**

Public reporting burden for this application is estimated to average 0.5 hours per application, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, 2136, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or Director, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

July 1998

**THREATENED AND ENDANGERED SPECIES - MONTANA**  
**Endangered Species Act**

**ENDANGERED (E)** - Any species that is in danger of extinction throughout all or a significant portion of its range.

**THREATENED (T)** - Any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

COMMON NAME	SCIENTIFIC NAME	STATUS	RANGE - MONTANA
Black-Footed Ferret	<i>Mustela nigripes</i>	E	Prairie dog complexes; Eastern Montana
Gray Wolf	<i>Canis lupus</i>	E	Forests; Western Montana
Peregrine Falcon	<i>Falco peregrinus</i>	E	Forests near cliffs; statewide
Whooping Crane	<i>Grus americana</i>	E	Wetlands; migrant statewide
Least Tern	<i>Sterna antillarum</i>	E	Yellowstone, Missouri River sandbars, beaches; Eastern Montana
Pallid Sturgeon	<i>Scaphirhynchus albus</i>	E	Bottom dwelling; Missouri, Yellowstone Rivers
White Sturgeon (Kootenai River Population)	<i>Acipenser transmontanus</i>	E	Bottom dwelling, Kootenai River
Grizzly Bear	<i>Ursus arctos horribilis</i>	T	Alpine/subalpine coniferous forest; Western Montana
Bald Eagle	<i>Haliaeetus leucocephalus</i>	T	Forested riparian; statewide
Piping Plover	<i>Charadrius melodus</i>	T	Missouri River sandbars, alkaline beaches; northeastern Montana
Water Howellia	<i>Howellia aquatilis</i>	T	Wetlands; Swan Valley, Lake and Missoula Counties
Ute Ladies'-tresses	<i>Spiranthes diluvialis</i>	T	River meander wetlands; Jefferson, Madison, Beaverhead, Gallatin Counties
Bull Trout (Columbia River basin population)	<i>Salvelinus confluentus</i>	T	Clark Fork, Flathead, Kootenai River basins - cold water rivers, lakes
Bull Trout (St. Mary-Belly River population)	<i>Salvelinus confluentus</i>	Proposed T	East of Continental Divide, Glacier Nat'l Park, Blackfeet Reservation - cold water rivers, lakes
Canada Lynx (contiguous U.S. population)	<i>Lynx canadensis</i>	Proposed T	Western Montana - montane forest

July 1998

MONTANA ANIMAL AND PLANT CANDIDATES FOR LISTING  
UNDER THE ENDANGERED SPECIES ACT

Candidate species are those taxa for which the U.S. Fish and Wildlife Service has sufficient information on biological status and threats to propose to list them as threatened or endangered. The Service encourages their consideration in environmental planning and partnerships; however, none of the substantive or procedural provisions of the Act apply to candidate species.

Compiles from the 1997 Plant and Animal Notice of Review (62 Federal Register 49398).

<u>Common Name</u>	<u>Scientific Name</u>	<u>Expected Occurrence</u> <u>(Montana)</u>
Swift Fox	<i>Vulpes velox</i>	E. of Divide-prairie grasslands
Mountain plover	<i>Charadrius montanus</i>	E. MT - shortgrass prairie
Sturgeon chub	<i>Macrhybopsis gelida</i>	Lower Yellowstone, Powder, Missouri, Rivers
Sicklefin chub	<i>Macrhybopsis meeki</i>	Yellowstone, Lower Missouri Rivers
Arctic grayling (fluvial population)	<i>Thymallus arcticus</i>	SW MT - Big Hole River
Warm spring zaitaevian riffle beetle	<i>Zaitzevia thermai</i>	Gallatin Co. - Warm Springs

---

## CLEAN WATER ACT – RIVERS & HARBORS ACT

The Corps of Engineers regulates waters of the United States and navigable waters of the United States under two federal statutes: Section 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act.

Section 10 of the Rivers and Harbors Act regulates activities on navigable waters of the United States. In Montana, navigable waters include all of the Missouri River, the Yellowstone River from the bridge at Emigrant downstream to the confluence of the Missouri River, and the Kootenai River upstream to the Canadian Border. Any work on, under, or over these water bodies requires authorization from the Corps of Engineers.

Section 404 regulates the discharge of dredged and/or fill material into waters of the U.S. which includes all navigable waters. Authorization is required for the excavation or the placement of dredged or fill material such as dirt, gravel, cement, etc., into Section 10 waters (as stated above), and all other waters, including interstate waters, lakes, rivers, streams, creeks, springs, seeps, mud flats, sand flats, wetlands, wet meadows and intermittent drainages where there is a defined bed and bank. No Section 404 authorization can be issued by the Corps of Engineers until Section 401 certificate (or a waiver thereof) is obtained pursuant to the requirements of Section 401 of the Clean Water Act.

401 certification or waiver indicates that the proposed project does not violate Montana water quality standards.

For projects not located on Indian Reservations, the Montana Department of Environmental Quality provides 401 certification. The U.S. Environmental Protection Agency (EPA) provides 401 certification of Indian Reservations in Montana except on the Confederated Salish-Kootenai Tribes of the Flathead Reservation and the Fort Peck Tribes of the Fort Peck Reservation. These tribes administer 401 certification for activities within their reservation boundaries.

If the state, tribe, or EPA denies a 401 water quality certification for certain activities within that state or reservation, then the Corps of Engineers will deny authorization for those activities without prejudice. Anyone wanting to perform such activities must **first** obtain a project specific 401 water quality certification or waiver from the state, tribe, or EPA before proceeding under any Department of the Army permit.

Authorizations vary as to the extent of the activity. Types of authorizations are: Nationwide permit, General Permit, Letter of Permission, and Individual Permit.

Many highway construction activities such as limited bank stabilization, minor stream crossings, and minor fills can be authorized under a Nationwide Permit. Stream channel changes and wetland filling may require a full public interest review under an Individual Permit which takes 60/90 days minimum to complete.

Highway projects should have their necessary permits before the letting of contracts. Any changes to a project in the field that are jurisdictional to Section 10 or Section 404 that have not been authorized in an issued permit will require the contractor to contact the COE prior to the beginning construction in these defined areas.

Violations of these two federal statutes may be subject to civil and/or criminal action, fines of \$500 to \$50,000 per day, and possible imprisonment.

If you are not sure if a permit may be required and for more information contact:

U.S. Army Corps of Engineers  
301 S. Park, Drawer 10014  
Helena, MT 59626-0014  
Tel: (406)441-1375  
Fax No: (406) 441-1380

On the Flathead Reservation:

Tribal Water Quality Program  
Environmental Protection Division  
P.O. Box 278  
Pablo, MT 59855  
Phone: (406) 675-2700, Ext. 369

**APPLICATION FOR DEPARTMENT OF ARMY PERMIT**  
(33 CFR 325)

OMB APPROVAL NO. 0710-003  
Expires October 1996

Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of defense, Washington Headquarters Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003), Washington, DC 20503. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

**PRIVACY ACT STATEMENT**

Authority: 33 USC 401, Section 10; 1413, Section 404. Principal Purpose: These laws require permits authorizing activities in, or affecting, navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Routine Uses: Information provided on this form will be used in evaluating the application for a permit. Disclosure: Disclosure of information is voluntary. If information is not provided, however, the permit application cannot be processed nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

*(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)*

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETED
--------------------	----------------------	------------------	-------------------------------

*(ITEMS BELOW TO BE FILLED BY APPLICANT)*

5. APPLICANT'S NAME	8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required)
6. APPLICANT'S ADDRESS	9. AGENT'S ADDRESS
APPLICANT'S PHONE NOS. W/AREA CODE	10. AGENT'S PHONE NOS. W/AREA CODE
a. Residence b. Business	a. Residence b. Business

11. **STATEMENT OF AUTHORIZATION**

I hereby authorize \_\_\_\_\_ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application

\_\_\_\_\_  
APPLICANT'S SIGNATURE

\_\_\_\_\_  
DATE

**NAME, LOCATION AND DESCRIPTION OF PROJECT OR ACTIVITY**

12. PROJECT NAME OR TITLE (see instructions)

13. NAME OF WATER BODY, IF KNOWN (if applicable)

14. PROJECT STREET ADDRESS (if applicable)

15. LOCATION OF PROJECT

\_\_\_\_\_  
COUNTY

\_\_\_\_\_  
STATE

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions)

17. DIRECTIONS TO THE SITE



18. NATURE OF ACTIVITY (Description of project, include all features)

19. PROJECT PURPOSE (Describe the reason or purpose of the project, see instructions)

USE BLOCKS 20-22 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. REASON(S) FOR DISCHARGE

21. TYPE(S) OF MATERIAL BEING DISCHARGED AND THE AMOUNT OF EACH TYPE IN CUBIC YARDS

22. SURFACE AREA IN ACRES OF WETLANDS OR OTHER WATERS FILLED (see instructions)

23. IS ANY PORTION OF WORK ALREADY COMPLETE? YES \_\_\_\_ NO \_\_\_\_ IF YES, DESCRIBE THE COMPLETED WORK

24. ADDRESSES OF ADJOINING PROPERTY OWNERS, LESSEES, ETC., WHOSE PROPERTY ADJOINS THE WATER BODY (if more than can be entered here, please attach a supplemental list.)

25. LIST OF OTHER CERTIFICATIONS OR APPROVALS/DENIALS RECEIVED FROM OTHER FEDERAL, STATE OR LOCAL AGENCIES FOR WORK DESCRIBED IN THIS APPLICATION.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NO.	DATE APPLIED	DATE APPROVED	DATE DENIED
--------	----------------	--------------------	--------------	---------------	-------------

\*Would include but is not restricted to zoning, building and flood plain permits

26. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF AGENT

DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in Block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsified, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

U.S. GPO:1994-520-478/82018



**Instructions for Preparing a**  
**Department of the Army Permit Application**

**Blocks 1 through 4.** To be completed by the Corps of Engineers.

**Block 5. Applicant's Name.** Enter the name of the responsible party or parties. If the responsible party is an agency, company, corporation or other organization, indicate the responsible officer and title. If more than one party is associated with the application, please attach a sheet with the necessary information marked Block 5.

**Block 6. Address of Applicant.** Please provide the full address of the party or parties responsible for the application. If more space is needed, attach an extra sheet of paper marked Block 6.

**Block 7. Applicant Telephone Number(s).** Please provide the number where you can usually be reached during normal business hours.

**Blocks 8 through 11.** To be completed if you choose to have an agent.

**Block 8. Authorized Agent's Name and Title.** Indicate name of individual or agency, designated by you, to represent you in this process. An agent can be an attorney, builder, contractor, engineer or any other person or organization. *Note:* An agent is not required.

**Blocks 9 and 10. Agent's Address and Telephone Number.** Please provide the complete mailing address of the agent, along with the telephone number where he/she can be reached during normal business hours.

**Block 11. Statement of Authorization.** To be completed by applicant if an agent is to be employed.

**Block 12. Proposed Project Name or Title.** Please provide name identifying the proposed project (i.e., Landmark Plaza, Burned Hills Subdivision or Edsall Commercial Center).

**Block 13. Name of Water body.** Please provide the name of any stream, lake, marsh or other waterway to be directly impacted by the activity. If it is a minor (no name) stream, identify the Water body the minor stream enters.

**Block 14. Proposed Project Street Address.** If the proposed project is located at a site having a street address (not a box number), please enter here.

**Block 15. Location of Proposed Project.** Enter the county and state where the proposed project is located. If more space is required, please attach a sheet with the necessary information marked Block 15.

**Block 16. Other Location Descriptions.** If available, provide the Section, Township and Range of the site and/or the latitude and longitude. You may also provide description of the proposed project location, such as lot numbers, tract numbers or you may choose to locate the proposed project site from a known point (such as the right descending bank of Smith Creek, one mile down from the Highway 14 bridge). If a large river or stream, include the river mile of the proposed project sit, if known.

**Block 17. Directions to the Site.** Provide directions to the site from a known location or landmark. Include highway and street numbers, as well as names. Also, provide distances from known locations and any other information that would assist in locating the site.

**Block 18. Nature of Activity.** Describe the overall activity or project. Give appropriate dimensions of structures such as wingwalls, dikes (identify the materials to be used in construction, as well as the methods by which the work is to be done), or excavations (length, width, and height). Indicate whether discharge of dredged or fill material is involved. Also, identify any structure to be constructed on a fill, piles or float supported platforms.

The written descriptions and illustrations are an important part of the application. Please describe, in detail, what you wish to do. If more space is needed, attach an extra sheet of paper marked **Block 18**.

**Block 19. Proposed Project Purpose.** Describe the purpose and need for the proposed project. What will it be used for and why? Also include a brief description of any related activities to be developed as the result of the proposed project. Give the approximate dates you plan to both begin and complete all work.

**Block 20. Reason(s) for Discharge.** If the activity involves the discharge of dredged and/or fill material into a wetland or other Water body, including the temporary placement of material, explain the specific purpose of the placement of the material (such as erosion control).

**Block 21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards.** Describe the material to be discharged and amount of each material to be discharged within Corps jurisdiction. Please be sure this description will agree with your illustrations. Discharge material includes: rock, sand, clay, concrete, etc.

**Block 22. Surface Area of Wetlands or Other Waters Filled.** Describe the area to be filled at each location. Specifically identify the surface areas, or part thereof, to be filled. Also include the means by which the discharge is to be done (backhoe, dragline, etc.). If dredged material is to be discharged on an upland site, identify the site and the steps to be taken (if necessary) to prevent runoff from the dredged material back into a Water body. If more space is needed, attach an extra sheet of paper marked **Block 22**.

**Block 23. Is Any Portion of the Work already Complete?** Provide any background on any part of the proposed project already completed. Describe the area already developed, structures completed, any dredged or fill material already discharged, the type of material, volume in cubic yards, areas filled, if a wetland or other Water body (in acres or square feet). If the work was done under an existing Corps permit, identify the authorization if possible.

**Block 24. Names and Addresses of Adjoining Property Owners, Lessees, etc., Whose Property Adjoins the Project Site.** List complete names and full mailing addresses of the adjacent property owners (public and private) lessees, etc., whose property adjoins the Water body or aquatic site where the work is being proposed so that they may be notified of the proposed activity (usually by public notice). If more space is needed, attach an extra sheet of paper marked **Block 24**.

**Information regarding adjacent landowners is usually available through the office of the tax assessor in the county or counties where the project is to be developed.**

**Block 25. Information About Approvals or Denials by Other Agencies.** You may need the approval of other federal, state or local agencies for your project. Identify any applications you have submitted and the status, if any (approved or denied) of each application. You need not have obtained all other permits before applying for a Corps permit.

**Block 26. Signature of Applicant or Agent.** The application must be signed by the owner or other authorized party (agent). This signature shall be an affirmation that the party applying for the permit possesses the requisite property rights to undertake the activity applied for (including compliance with special conditions, mitigation, etc.).

### **DRAWINGS AND ILLUSTRATIONS**

#### **General Information.**

Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are identified as a **Vicinity Map**, a **Plan View**, or a **Typical Cross Section Map**. Identify each illustration with a figure or attachment number.

Please submit one original, or good quality copy, of all drawings on 8½" x 11" plain white paper (tracing paper or film may be substituted). Use the fewest number of sheets necessary for your drawings or illustrations.

Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view, or cross section). While illustrations need not be professional (many small, private project illustrations are prepared by hand), they should be clear, accurate and contain all necessary information.

## JOINT APPLICATION FOR PROPOSED WORK IN MONTANA'S STREAMS, WETLANDS, FLOODPLAINS AND OTHER WATER BODIES

To reduce paperwork, the agencies listed below have created this joint application form. This is **NOT** a joint permit. In the box below, **check all permits** that apply to your proposed work. After you complete the form, make a copy for each permit checked and sign each copy. **Send one copy with original signatures** to each agency responsible for each permit you have checked. Refer to the "Information for Applicant" sheet on the back of this form or the "Guide to Stream Permitting in Montana," available from participating agencies, for more information.

PERMIT	AGENCY	FEE
<input type="checkbox"/> Natural Streambed & Land Preservation Act (310)	Local conservation district	No Fee
<input type="checkbox"/> Stream Protection Act (SPA124) (for government agencies or government contractors only)	MT Department of Fish, Wildlife & Parks (DFWP)	No Fee
<input type="checkbox"/> Floodplain Permit	County Floodplain Administrator	Varies (\$25-\$400)
<input type="checkbox"/> Section 404/Section 10 Permits	U.S. Army Corps of Engineers (COE)	Varies (\$0-\$100)
<input type="checkbox"/> 318 Authorization	MT Department of Environmental Quality (DEQ)	No Fee
<input type="checkbox"/> Navigable Rivers Land Use License/Easement	MT Department of Natural Resources & Conservation (DNRC)	License \$25-- Easement \$50

**NOTE:** Other laws may apply. It is your responsibility to obtain all necessary permits before beginning work. **Incomplete applications will be rejected.**

- NAME OF **LANDOWNER** \_\_\_\_\_  
Address \_\_\_\_\_ Day Phone: \_\_\_\_\_  
City/State/Zip \_\_\_\_\_ Evening Phone: \_\_\_\_\_
- NAME OF **APPLICANT** (if different from landowner) \_\_\_\_\_  
Applicant is: (check one) ☐ Landowner ☐ Contractor ☐ Other (explain) \_\_\_\_\_  
☐ Government Agency ☐ Landowner's Agent (Title) \_\_\_\_\_  
Address \_\_\_\_\_ Day Phone: \_\_\_\_\_  
City/State/Zip \_\_\_\_\_ Evening Phone: \_\_\_\_\_  
Has the landowner consented to this project? ☐ Yes ☐ No
- ATTACH A **MAP** with directions to locate the site where the work will be done. ☐ Yes, attached.
- NAME OF **STREAM OR WATER BODY** at site location: \_\_\_\_\_ Nearest town: \_\_\_\_\_  
**Location:** \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_, County \_\_\_\_\_

This space is for SPA 124 permits only (government projects).

Project

Name: \_\_\_\_\_  
Control Number: \_\_\_\_\_ Contract letting date: \_\_\_\_\_  
MEPA/NEPA Compliance ☐ Yes ☐ No

5. **TYPE OF PROJECT** (check all that apply)

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Stream crossing (bridges, culverts, fords) | <input type="checkbox"/> Fish Habitat/Pond                 | <input type="checkbox"/> Mining             |
| <input type="checkbox"/> Bridge/Culvert Removal                     | <input type="checkbox"/> Recreation (docks, marinas, etc.) | <input type="checkbox"/> Dredging           |
| <input type="checkbox"/> Road Construction/Maintenance              | <input type="checkbox"/> New Residential Structure         | <input type="checkbox"/> Core Drill         |
| <input type="checkbox"/> Bank Stabilization                         | <input type="checkbox"/> Manufactured Home                 | <input type="checkbox"/> Placement of Fill  |
| <input type="checkbox"/> Flood Protection                           | <input type="checkbox"/> Commercial Structure              | <input type="checkbox"/> Water Well         |
| <input type="checkbox"/> Channel Alteration                         | <input type="checkbox"/> Improvement to Existing Structure | <input type="checkbox"/> Wetland Alteration |
| <input type="checkbox"/> Irrigation Structure                       | <input type="checkbox"/> Utilities                         | <input type="checkbox"/> Other _____        |

6. WHAT IS THE **PURPOSE** of the proposed project?

IS APPLICATION for an **annual maintenance permit**?

☐ Yes ☐ No

If yes, an **annual plan of operation** must be attached to this application.

8. PROPOSED **CONSTRUCTION** DATE: Start \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Finish \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Is any portion of the work **already completed**? ☐ Yes ☐ No If yes, describe the completed work.

9. IN SECTIONS 9(a) through 9(e), DESCRIBE IN DETAIL the **work** you plan to do. Attach additional sheets if necessary.

Attach a plan or drawing of the proposed project. Include (1) the dimensions of the project; (2) dimensions and location of fill or excavation sites; (3) location of storage or stockpile materials; (3) location of existing or proposed structures, such as buildings, utilities, roads, or bridges; (4) drainage facilities. Floodplain permit applicants are encouraged to inquire locally since additional information is required.

- a. **Dimensions** of the project. Describe the impacted area. How many linear feet of bank will be impacted? How far will the proposed project extend into and away from the water body?
- b. How much **vegetation** and what type of vegetation will be removed or covered with fill material? How will the disturbed area be reclaimed?  
What **materials** will be used, and how much (cubic yards, linear feet, etc., of each)?
- d. What **equipment** will be used for the work?
- e. What **steps** will be taken during and after construction to minimize: (use additional sheets if necessary)
1. Erosion and sedimentation?
  2. Stream channel alterations?
  3. Effects on stream flow or water quality caused by materials used or removal of ground cover?
  4. Effects on fish and aquatic habitat?
  5. Risks of flooding or erosion problems upstream and downstream?

10. COMPLETE 10(a) through 10(c) **ONLY** if you are applying for a **FLOODPLAIN OR SECTION 404/SECTION 10 PERMIT**.

- a. Will the project involve placement of **fill material** in a wetland? If yes, describe. How much **wetland** area will be filled? Include a delineation of the wetland boundary and a calculation of the impacted acreage.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- b. List names and addresses of **landowners** adjacent to and across from the project site. (At its discretion, the permitting agency may contact these landowners.)
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- c. If you have already applied for any permits, list them and indicate whether they were **issued**, **denied**, or are **pending**.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**Application Submittal Information (Send only to those agencies checked on page one of this form.)**

**310 Permits.** Submit three copies of the application form and plans to the conservation district. Nothing additional is required unless specifically requested by the conservation district. **Application review usually takes 30 to 60 days.**

**SPA 124 Permits (government projects only).** A set of preliminary plans or sketches of the proposed project must accompany the application. (Note: For projects sponsored by the Department of Transportation, two sets of plans must be sent with this form to the Helena DFWP office.) **Application review may take up to 60 days.**

**Floodplain Permits.** Prior to submitting this application, contact the local floodplain administrator. Permit requirements and fees may vary. Applicant may be required to hire a professional engineer to submit plans. **Application review usually takes up to 90 days.**

**Section 404/Section 10 Permits.** Nothing additional is required unless specifically requested. **Application review may take 30 to 120 days.**

**318 Authorizations.** Do not send this form directly to DEQ if you are applying for a 310 permit of SPA 124 permit. You will be notified if you must apply. **If this authorization is needed, application review usually takes 10 days.**

**Easements on State Navigable Water Bodies.** Additional fees, a land survey, and other information will be required. Contact the local DNRC land office for information. **Land use license review usually takes up to 60 days. Easements may take up to 90 days.**

**SIGNATURES/AUTHORIZATIONS**

I certify that the above statements are true and correct. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the landowner. I authorize the inspection of the project site by inspection authorities. Both the landowner and the person doing the work have the duty to comply with the stipulations of all permits and laws.

**For 310 applicants only**

When an applicant or other team member disagrees with the conservation district supervisors' decision, the applicant or other team member shall request that an arbitration panel be appointed as provided in MCA 75-7-113 to hear the dispute and make a decision. The request must be made in writing and must be received by the district within five working days of the receipt of the supervisors' decision. Disputes may also be solved informally. The rules of arbitration are included with this form.

By signing this form, I acknowledge that I have read and understand the Natural Streambed and Land Preservation Act rules of arbitration and agree, in any disputes arising from the supervisors' decision, to abide by the rules of arbitration.

Signature of Landowner

Date

Signature of Applicant

Date

may be waived by agency for utilities  
and other easement holders)



## INFORMATION FOR APPLICANT

*Instructions for filling out the Joint Application for Proposed Work in Montana's Streams, Wetlands, Floodplains, and Other Water Bodies.*

This application form can be used to apply for permits from agencies listed on the front of the application form. The participating agencies created this form to reduce the number of application forms an applicant must complete when planning to work in Montana's waterways. Individual authorizations or permits must be obtained prior to conducting work, and will be issued by each agency independently.

**List of Permits on Front.** Review "A Guide to Stream Permitting in Montana" to determine which permits are necessary for the planned work. This guide is available from all participating agencies. Please note that the guide lists permit requirements from other agencies than those listed in the box on the front of the application form. Applications must be made to those agencies on separate forms if the law applies, as they are not covered by this form. Check a box on the top of the front page for every permit required for your project, and send the required number of copies of this application form with original signatures and attachments to each applicable agency. Fees listed in the box are for the applicant's information. **Do not submit the fee with the application form.** The responsible agency will contact you if the fee applies to your project.

Questions 1 through 9 are required for all applications. Fill out question 10 only if you are applying for a floodplain permit, a Section 404 permit, or a Section 10 permit. **The numbers below refer to the numbers on the application form.**

1. The name and address of the landowner are required only if they are different from the applicant. Be aware, that the issuance of a permit does not constitute landowner permission. The applicant has the responsibility to secure landowner permission prior to conducting work.
2. The applicant can be the landowner or any agent of the landowner. For 310 permits, the applicant, by signing the application form, agrees to abide by the rules of arbitration written on the back of this form.
- 3 – 4. This information is required to locate the project and the water body physically.
5. Check all boxes that apply to the proposed work.
6. Describe the need and purpose of the proposed work. What will it be used for and why?
7. Conservation districts may authorize minor maintenance activities for up to ten years. If the proposed work will be conducted each year, check this box. Not all conservation districts authorize maintenance permits, however. An annual plan of operation would include the nature and extent of work to be conducted each year. It should include, at minimum, a detailed description of the work to be done, the timing of the work proposed, and the amount of streambed materials to be removed, as well as other information required by the district. If the conservation district authorizes an annual maintenance permit, the application still may be required to seek approval from other agencies prior to doing work each year.
8. The timing of construction is an important factor in determining impacts to water quality, fish, and aquatic life. Authorizations/permits may contain timing restrictions on construction activities.
9. Use this section to describe the proposed work, and how you plan to mitigate the impacts of the work. A separate plan or drawing of the work, with information applicable to your project, is required. Application review time will depend upon the submittal of a complete application.
  - a. Generally describe the impact area of your project and provide the dimensions listed. Use the high water mark as a point of measure. If you are unsure of the high water mark, specify another point of measure.
  - b. Most agencies require that only the vegetation that is necessary to conduct the work be removed. Describe how you plan to revegetate the area or otherwise control erosion or sedimentation at the site.
  - c. Describe the materials that will be used to construct the proposed work. Include the dimensions if they are not included in drawings provided.
  - d. List all equipment that will be used for construction of the project.
  - e. Projects must be designed and constructed to minimize impacts to the water body. Use this section to describe what you plan to do to minimize the impact of the proposed project during and after construction. Examples would include sediment fences along the bank or below the proposed work, coffer dams to direct flow away from the project area, diverting the stream through a culvert, revegetating disturbed areas, timing of the project, etc.
10. Section 10 should be answered only if you are applying for a floodplain or 404/10 permit.
  - a. Wetlands include areas that are inundated or saturated with water long enough to support vegetation typically adapted for life in saturated conditions. Contact the Corps of Engineers if you are unsure if you have a wetland. Wetlands are generally determined on a site-by-site basis. Subsection (b) and (c) are self-explanatory.

# **NATURAL STREAMBED AND LAND PRESERVATION ACT - RULES OF ARBITRATION (for 310 applications only)**

The Natural Streambed and Land Preservation Act arbitration process is governed by the Uniform Arbitration Act, MCA § 27-5-111 through 27-5-324, except as expressly provided in these rules.

**Administering Agency.** The conservation district or the county attorney will act as the administering agency for the arbitration process. Each team member is a party to the arbitration. The person or persons requesting arbitration is the contesting party. By mutual agreement, the parties shall select a person to provide clerical services and to collect fees associated with the costs of the arbitration panel. If mutually agreed, the conservation district may provide these services. The applicant may not submit a second application for the original project during the arbitration process unless the applicant withdraws his request for arbitration.

**2. Selection of the Arbitration Panel.** Within thirty (30) days of the request for arbitration, each team member must submit the names and qualifications of three consenting persons to the administering agency. The senior district judge for the judicial district of the conservation district involved will select three panel members, one from each team member's group of names. The panel members must be residents of that judicial district at the time of selection. If the contesting party fails to submit names to the administering agency within 30 days, the arbitration request will be withdrawn. If the other parties fail to submit names, the senior district judge will select the additional panelists. The panel shall only sit for the period of time necessary to settle the dispute before it and will review the proposed project in line with the policy set forth by MCA § 75-7-102. The panel shall appoint a chair. The powers of the arbitration panel shall be exercised by majority agreement of the panel. If during the course of the hearing an arbitrator ceases to act, the remaining panel members may continue with the hearing and make a determination on the dispute.

**3. Costs of the Arbitration.** Costs of the arbitration panel, computed as for jurors' fees under 3-15-201, shall be borne by the contesting party or parties. Clerical costs of the panel shall be paid for by the nonprevailing party determined by the panel. For all other expenses, each party shall bear their own costs.

**4. Prehearing.** The panel may call a prehearing to set arbitration hearing schedule, and to request specific written information from the parties.

**5. Date, Time, and Place of Hearing.** The panel will select the time and place for the hearing. The hearing must be held in the judicial district in which the dispute takes place. The panel may consider requests for specific locations for the hearing. The panel may conduct on-site inspections. The chair of the panel may require the parties to submit copies of exhibits and a summary of its case, including a list of witnesses, to the panel and all other parties, prior to the hearing.

**6. Notice of Hearing.** Not less than ten days before the hearing, the administering agency shall notify personally or by certified mail the parties to the arbitration. The notice shall include a description of the subjects and issues involved and the time and place of the hearing.

**Representation and Assistance.** All parties have the right to be represented or assisted by an attorney.

**8. Attendance at Hearings.** The arbitration panel may excuse a witness during the testimony of another witness. The arbitration panel may hold the hearing and make its determination, even if a party duly notified fails to appear.

**9. Scope of Review.** The arbitration panel will review the evidence and uphold, modify, or deny the supervisors' decision. The panel shall consider evidence used by the supervisors in reaching their decision. The panel may consider new evidence or information the parties wish to present relevant to the original project if no objection is raised to the presentation of the new evidence. The panel may not consider new evidence if an objection is made.

**10. Arbitration Hearing Process—Witnesses, Subpoenas, and Depositions.** The hearing will be informal. The Montana Rules of Evidence will not apply but irrelevant, immaterial, or unduly repetitious evidence may be excluded by the panel. The parties are entitled to be heard, present evidence material to the notice of project and the supervisor's decision, and question witnesses testifying at the hearing. All members of the panel may question the parties and witnesses, subject to the control of the Chair. At the conclusion of the hearing, the panel may take the matter under advisement. A majority of the panel will render a final decision. The arbitration panel may request the district court issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and may administer oaths. The provisions of law providing for service of subpoenas are applicable. The arbitration panel may permit a deposition to be taken, by the arbitration panel, of a witness who cannot be subpoenaed or is unable to attend the hearing.

**11. Procedure at the Hearing.** The hearing must be tape-recorded. If judicial review is necessary, the tapes or relevant portions of the tapes may be transcribed. The parties may arrange for a transcription of the hearing at their own cost.

Each party may give opening statements, describing, generally, their position on the supervisors' decision. The contesting party will then present its witnesses and evidence. The other parties will follow, in turn, with their witnesses and evidence. The panel and team members may ask questions after each party presents their case. Each party may conclude with closing remarks or statements summarizing their positions and evidence.

**12. Award.** The award is the final decision of the arbitration panel. The award must be in writing and signed by the arbitrators. The arbitration panel's award must be issued within sixty (60) days after the hearing. The arbitration panel shall deliver a copy of the decision to each of the parties and the district judge either personally or by certified mail. The district court shall confirm the panel's award, unless a party applies and shows grounds for vacating, modifying, or correcting the award.

**Judicial Review.** If the panel's decision is contested, the court will review the panel's decision in accordance with MCA § 27-5-312 and 313, Uniform Arbitration Act.



## ADDRESSES/CONTACTS

Army Corps of Engineers, 301 South Park, Drawer 10014, Helena, MT 59626-1275, 441-1375 for Section 404/Section 10 permits.

Department of Environmental Quality, Permitting and Compliance Division, Water Protection Bureau, Box 200901, Helena, MT 59620-0901, 444-3080, for 318 authorizations.

### **If specific addresses are not provided in this section:**

Contact the Montana Association of Conservation Districts, (406) 443-5711 or the Conservation Districts Bureau, DNRC, 444-6667 **to locate the local conservation district**, for 310 permits.

Contact the Montana Fish, Wildlife and Parks, 444-2449, **to locate the correct Fisheries Region** for SPA 124 permits.

Contact the Department of Natural Resources and Conservation, Water Resources Division, 444-0860, **to locate the local floodplain administrators**, or, call the county office for floodplain permits. Contact the Special Use Management Bureau, 444-2074, **to locate the correct land office** for your project for land use licenses or easements on navigable rivers.

**OPERATOR RESPONSIBILITIES**  
**OPEN CUT MINING ACT-TITLE 82-4-431(1) MCA**

The Department of Environmental Quality Permitting and Compliance Division administers the Open Cut Mining Act that requires and regulates reclamation of land mined for sand, gravel, soil and peat, bentonite, clay, and scoria.

All operators who have mined a total of 10,000 cubic yards of product and overburden since 1973 must enter into a Mined Land Reclamation Permit with the State once the limit has been exceeded, regardless of the succeeding operation's size and volume.

To comply with the Act, an operator must complete and submit for approval:

1. Application for Mined Land Reclamation Contract form,
2. Mined Land Reclamation Permit,
3. Plan of Operations,
4. Reclamation Bond (see Open Cut Mining Section for bonding reports),
5. Zoning Compliance form,
6. Landowner Consent form (see Open Cut Mining Section),
7. Verification of Noxious Weed Control Plan  
\$50.00 filing fee.

After the Department receives an application, it is reviewed for completeness, a site evaluation is conducted, and the plan of operations is further reviewed for content and applicability to the site. If further information is necessary, the operator will be notified. Although the statute allows 30 days to review (plus an additional 30 if necessary), 15 days is the target for approval. During those 15 days, Department staff is in contact with the local weed districts, the Natural Heritage Program for threatened and endangered species, and the State Historic Preservation Office, and is also preparing the Environmental Assessment.

To aid the operator's compliance, Open Cut Mining Bureau staff have prepared a packet containing the statute, rules and regulations, all forms necessary, plus guidelines and examples.

Department staff located in Helena, Kalispell, and Billings, are available and willing to assist operators in application preparations and to answer any questions.

For additional information contact:

Department of Environmental Quality  
Permitting & Compliance Division  
Industrial & Energy Minerals Bureau  
Open Cut Mining Section  
P.O. Box 200901  
Helena, MT 59620-0901  
Tel: 444-4970

A list of the area phone numbers is as follows:

Helena:	(406) 444-4970
Kalispell:	(406) 755-8985
Billings:	(406) 247-4436



## OPENCUT MINING OPERATOR RESPONSIBILITIES

**APPLICABILITY.** The Opencut Mining Act went into effect on March 17, 1973, and has been amended at various times by the Montana State Legislature. The requirements of the Act, and the Rules And Regulations adopted pursuant to the Act, may apply to any party that mines, or controls the mining of, sand, gravel, bentonite, clay, scoria, phosphate rock, borrow material, topsoil, or peat on any land in Montana, except tribal land.

There are two ways that an operator may be subject to the requirements of the Act (re: 82-4-431(1) MCA):

1. By mining a cumulative total of 10,000 cubic yards of overburden and/or opencut mineral from one or more sites in Montana. This is not a per site exclusion; and
2. By conducting an opencut mining operation that will disturb an area previously reclaimed pursuant to the Act.

When subject to the requirements of the Act, an operator must permit the site or sites they are currently operating plus any future opencut operations regardless of acreage disturbed or quantity removed.

**PERMIT** application is made for each new site an operator wants to mine and must contain:

1. Application For Mined Land Reclamation Permit form\*;
2. A \$50.00 application fee (government, topsoil & peat operators exempt);
3. Mined Land Reclamation Permit form\*;
4. Plan Of Operation (see the Plan Of Operation form and various guidelines);
5. Map (see the Map Guidelines);
6. Bond (see the Cash Bond\*, Irrevocable Letter Of Credit\*, Property Bond\*, Savings Certificate Assignment\*, and Surety Bond\* forms; government entities exempt);
7. Landowner Consent For Reclamation form\* (unless operator owned land);
8. Resident Notification Forms (if applicable, see form);
9. Verification of Noxious Weed Control Plan; and
10. Zoning Compliance Form.

**AMENDMENT** application (no fee) is made to add acreage to a permitted site or to modify a site's Plan Of Operation and must contain:

1. Application For Amendment form\* (only if proposing to add acreage);
2. Amendment To Mined Land Reclamation Permit form\* (if proposing to add acreage or modify the Plan Of Operation);
- 3a. If proposing to add acreage: 1) a description of the area (see Section I of the Plan Of Operation form), 2) either a statement that the current Plan Of Operation is applicable, additional plan information, or a modified plan, and 3) a new map of the entire area; or
- 3b. If proposing to modify the Plan Of Operation: 1) additional plan information or a modified plan, and 2) a new map if the proposed changes warrant one;
4. Additional bond or a rider as needed to cover additional acreage or plan modifications (government entities exempt);
5. Landowner Consent For Reclamation form\* (not applicable if operator-owned land);
6. Resident Notification Forms (if applicable, see form); and
7. Zoning Compliance Form (if a different postmining land use is proposed).

\*Use these items as issued--they may be photocopied.

**SHORT FORM\*** application is made when an operator that currently holds a Mined Land Reclamation Permit wants to remove 2,500 cubic yards or less of opencut mineral from a nonpermitted site. Short Form sites require no premine inspection by the Department, and no fee or bond.

**NOTIFICATION** to the Department of a planned site opening is requested at least 15 days in advance. The Department must evaluate the site, review the application, comply with the Montana Environmental Policy Act, and approve the application before a proposed operation may proceed.

**COMPLIANCE** with the terms of a permit, amendment, or Short Form is required. An operator is responsible for mine-related disturbances in and within 1,000' of the mine site, including subpermit operations. The Department conducts periodic on-site evaluations to verify compliance and may issue violations, collect civil penalties for noncompliance, claim bonds to permit reclamation, sue to enforce permits, and take legal action to enjoin operations and collect penalties.

**ASSIGNMENT forms\*** may be submitted to transfer a permit to another operator. Contact the Department to obtain an Application For Assignment form and the appropriate accompanying assignment form.

**ANNUAL PROGRESS REPORT (APR) forms\*** and maps must be completed and sent to the Department between January 15 and March 15 of each year. The Department sends annual reminders prior to this reporting period.

**REQUEST FOR PARTIAL OR FULL BOND RELEASE or REQUEST FOR LIABILITY RELEASE forms\*** are submitted by operators desiring bond or liability release. Bonded sites may be eligible for partial release when a portion of the reclamation is completed. On any bonded site, the Department will retain at least \$200 per acre or \$1,000, whichever is larger, until full release. If properly seeded or planted, and under favorable conditions, a site may be eligible for full bond or liability release after one complete growing season for cropland and two complete growing seasons for grassland or other perennial vegetation. Operators are advised to monitor the use and management of their sites to ensure reclamation success.

\*Use these items as issued—they may be photocopied.

**A primary goal of the Opencut Mining Program is to keep the program,  
including the Operator Packet, as simple and user-friendly as possible.  
Please offer your suggestions and request assistance anytime.**

**Thank you!**

## APPLICATION FOR MINED LAND RECLAMATION PERMIT

*Normal processing & review time for a complete application is 30 days or less. This time may be extended by 30 days if sufficient cause warrants such.*

Name, address, & zip code of applicant (print or type):		This permit application must contain: 1. This form; 2. \$50 application fee (government, top soil & peat operators exempt); 3. Mined Land Reclamation Permit form; 4. Plan Of Operation; 5. Map; 6. Bond (government operators exempt); 7. Landowner Consent For Reclamation form (N/A if operator-owned land); 8. Resident Notification Forms (if applicable, see form); 9. Verification of Noxious Weed Control Plan; and 10. Zoning Compliance Form (for sand and gravel mining only).	
Phone number: Fax number:		Site name:	
Surface ownership of land to be affected (name, address, & zip code):		Legal description:  ____ ¼ ____ ¼, Sec. ____, T. ____ N/S, R. ____ E/W	
		County:	
Phone number: Fax number:		Distance and direction <u>from which</u> nearest community:	
Mineral ownership (name, address, & zip code):		Check which of the following will be used on site: ____ crusher ____ asphalt plant ____ wash plant ____ other (batch plant, building, scale, screen etc.)	Estimated quantity of mineral or overburden to be removed from site (cubic yards):
Phone number: Fax number:		Number of acres to be mined under this permit:	Total number of acres to be permitted:
Contractor(s) who will be working on site:		Mineral to be mined:	Estimated maximum depth of mining:
		Date operation will begin:	
Name of individual who will be on site and familiar with the Plan Of Operation:		APPLICANT AFFIRMS THAT APPLICANT HAS THE RIGHT AND POWER, BY LEGAL ESTATE OWNED, TO MINE THE LANDS HERETOFORE DESCRIBED. APPLICANT ALSO AFFIRMS THAT THE CONTENTS OF ALL ATTACHMENTS TO THIS APPLICATION BECOME A PART OF THE TERMS THEREOF.	

SIGNATURE AND TITLE

DATE

FOR DEPARTMENT USE

Received: \_\_\_\_\_ Bond No.: \_\_\_\_\_ Bond Amount: \_\_\_\_\_

Opencut Mining 10/99





MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
PERMITTING & COMPLIANCE DIVISION  
INDUSTRIAL & ENERGY MINERALS BUREAU  
PO BOX 200901  
HELENA MT 59620-0901  
PHONE 406 444-4970 FAX: 406 444-1923

## MINED LAND RECLAMATION PERMIT

Site Name: \_\_\_\_\_

Permit No. \_\_\_\_\_

(Provided by the Department)

This permit is issued by STATE OF MONTANA, DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) of Helena, Montana to \_\_\_\_\_ (OPERATOR).

Pursuant to Section 82-4-422(1) MCA, the DEQ is authorized to issue Mined Land Reclamation Permits where it is found that the requirements of the law and rules can be carried out and will be observed.

In consideration of the above and other good and sufficient consideration, the following applies to this permit:

1. The DEQ hereby authorizes the OPERATOR to conduct opencut mining operations, as described in the application which was previously submitted and is hereby approved and made a part of this permit, on \_\_\_\_\_ acres in the \_\_\_\_\_ § \_\_\_\_\_, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W. \_\_\_\_\_ County, Montana. This permit does not authorize opencut mining operations other than as described in the application or as described above. Operating without a permit is a violation of law subject to civil penalties. The application is hereby incorporated as a part of this permit for all purposes.
2. The OPERATOR shall comply with all requirements of the Opencut Mining Act in Title 82, Chapter 4, Part 4, MCA and all rules adopted pursuant thereto.
3. The OPERATOR shall reclaim all affected land in accordance with the previously submitted and approved Mining And Reclamation Plan which is part of the application and of this permit. The DEQ may periodically review each plan and require modifications as necessary. Reclamation shall be as concurrent with mining as feasible and will be completed within the time frame specified in the plan.
4. The OPERATOR may submit amendment applications to the permit at any time. If approved, the amendments shall be attached to the permit and become a part of the permit for all purposes.
5. The OPERATOR (unless the State of Montana, a county, city, or town or the U.S. Government) has submitted a bond or other acceptable surety to ensure that the affected land is reclaimed in accordance with the Mining And Reclamation Plan. Failure to reclaim in accordance with the plan shall result in forfeiture of the bond. If the bond is revoked or otherwise becomes invalid, the operator shall submit a new bond or surety within 30 days. Failure to submit a new bond suspends this permit.
6. The OPERATOR shall allow access by the DEQ and its representatives at all times in order to determine whether the terms of this permit are being complied with.
7. If reclamation according to the Mining And Reclamation Plan has not been completed in the time specified, the DEQ, after 30 days written notice, may order the OPERATOR to cease mining and issue an order to reclaim. If the OPERATOR does not cease, the DEQ may institute action to enjoin further opencut mining by the OPERATOR and issue an order to reclaim.
8. A person who violates any of the provisions of Title 82, Chapter 4, Part 4 MCA, or any rules or order adopted under this part is subject to the penalty provisions of section 82-4-441 (1)-(4) MCA.
9. This permit is effective upon signature by the DEQ and shall remain in force until terminated by mutual consent or by the DEQ upon 6 months notice.

STATE OF MONTANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY

BY: \_\_\_\_\_  
BUREAU CHIEF  
INDUSTRIAL & ENERGY MINERALS BUREAU

DATE \_\_\_\_\_

Opencut Mining 10/99



Operator: \_\_\_\_\_

Permit Number: \_\_\_\_\_  
(Provided By The Department)

## VERIFICATION OF NOXIOUS WEED CONTROL PLAN

(To be submitted as part of an application for a Mined Land Reclamation Permit)

\_\_\_\_\_(operator) has submitted and received approval for a plan to control noxious weeds on land to be disturbed by and permitted for, Opencut Mining operations in the \_\_\_\_\_ $\frac{1}{4}$  \_\_\_\_\_ $\frac{1}{4}$ , Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W, \_\_\_\_\_ County. [See exception below]

Subject land is owned by: \_\_\_\_\_  
Name

\_\_\_\_\_ for \_\_\_\_\_ County Weed District  
Name

\_\_\_\_\_  
Signature Date

### ***THIS SECTION TO BE COMPLETED ONLY IF APPLICANT IS UNABLE TO SECURE AN APPROVED NOXIOUS WEED CONTROL PLAN***

Applicant affirms that he/she has attempted to secure a noxious weed control plan as indicated above, but that for unspecified reasons, the respective weed district was unavailable for consultation and direction. Applicant further affirms respective weed district was notified but was unable to approve or provide a noxious weed control plan within five (5) working days of notification.

*Enclose documentation such as certified mail receipt with copy of letter and/or request to meet, or sworn statement that a weed district representative verbally declined to meet.*

\_\_\_\_\_  
Applicant's Signature

I hereby swear that I did verbally contact the \_\_\_\_\_ weed district, on \_\_\_\_\_ (date) but said district was unable to provide or approve a Noxious Weed Control Plan within five (5) working days of the aforementioned date.

\_\_\_\_\_  
Notary

\_\_\_\_\_  
Signature

This verification does not relieve the operator from controlling noxious weeds on any lands permitted under the Opencut Mining Act



MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
PERMITTING & COMPLIANCE DIVISION  
INDUSTRIAL & ENERGY MINERALS BUREAU  
PO BOX 200901  
HELENA MT 59620-0901  
PHONE: 406 444-4970 FAX: 406 444-1923

## ZONING COMPLIANCE FORM FOR OPENCUT SAND & GRAVEL MINING

### For Compliance With Local Zoning Regulations Title 76, Chapter 2, And Title 84, Chapter 4

This document must be signed by an appropriate city/county government representative and accompany an application for a Mined Land Reclamation Permit involving sand and gravel mining.

I/We, hereby declare that \_\_\_\_\_ (applicant) has notified me/us that Applicant is proposing

to conduct opencut mining sand and gravel operations in the \_\_\_\_ ¼ \_\_\_\_ ¼, Section \_\_\_\_, Township \_\_\_\_ N/S, Range \_\_\_\_ E/W,

\_\_\_\_\_  
County. The proposed operation complies with

\_\_\_\_\_  
County/City's approved zoning regulations.

\_\_\_\_\_  
Signature of County/City Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title



Operator: \_\_\_\_\_

Permit Number: \_\_\_\_\_  
(Provided By The Department)

## LANDOWNER CONSENT FOR RECLAMATION

This agreement is made and entered into by and between the State of Montana, Department of Environmental Quality (DEQ) of Helena, Montana and \_\_\_\_\_ (landowner) in consideration for the issuance of a Reclamation Permit pursuant to the Opencut Mining Act (Title 82, Chapter 4, Part 4, MCA, hereinafter referred to as the [Act]). Landowner and DEQ hereby agree as follows:

1 - Landowner is the owner of certain land described as \_\_\_\_\_  $\frac{1}{4}$  \_\_\_\_\_  $\frac{1}{4}$ , Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W, \_\_\_\_\_ County, Montana;

2 - \_\_\_\_\_ (operator) proposes to conduct mining operations on the above-described land subject to the requirements of the Act;

3 - Landowner has read and understands the Mining And Reclamation Plan for the proposed mine, and has provided any comments, recommendations, map, or drawing on page two of this form;

4 - Landowner agrees to allow the operator, DEQ, or DEQ's agents or contractors in the event of default by the operator, to enter the above-described lands in order to complete reclamation in accordance with the Mining And Reclamation Plan approved by DEQ pursuant to the Act;

5 - Landowner agrees to require any purchaser of the above-described lands to agree in writing to grant consent to reclaim in accordance with this agreement or allow sufficient time for operator to reclaim prior to transfer of title;

6 - Landowner agrees that operator will be granted exclusive use to mine the area included in the Reclamation Permit, with the exception that operator may allow landowner or operator's subcontractors to remove minerals within the contracted area and that operator remains responsible for that mining and reclamation; and

7 - Landowner agrees to allow DEQ employees to enter the above-described lands for periodic evaluations until the bond or security required by the Act is fully released.

(Landowner, among the various commitments made and actions allowed in the Plan Of Operation, please be reminded that excess overburden, fines, and oversize, clean fill limited to soil, dirt, sand, gravel, rock, brick, and exposed-metal-free concrete, and on-site generated asphaltic pavement, metal, plastic, and tires may be disposed of on site. Other wastes may be disposed of on site only if operator obtains an appropriate solid waste management system license from the Department.

Also, please be advised that a site reclaimed to cropland is typically released after one crop has been successfully grown, and a site seeded or planted to perennial vegetation is typically released after two complete growing seasons or when site stabilization and revegetation success is achieved, whichever is longer. Landowner cooperation with appropriate site protection and management during vegetation establishment is appreciated.

If you have any questions or comments about the mining operation, reclamation, site release, or the Opencut Mining Program, please contact the Department.)



LANDOWNER'S COMMENTS AND RECOMMENDATIONS FOR RECLAMATION, IF ANY: \_\_\_\_\_

---

---

---

---

---

---

---

---

MAP OR DRAWING, IF NEEDED:

---

---

---

---

---

---

---

---

\_\_\_\_\_  
LANDOWNER

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE, IF ANY

\_\_\_\_\_  
DATE

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY, STATE, ZIP

\_\_\_\_\_  
PHONE NUMBER

STATE OF MONTANA, DEPARTMENT OF ENVIRONMENTAL QUALITY

BY: \_\_\_\_\_

\_\_\_\_\_  
DATE

Opencut Mining 10/99

## **MONTANA FLOODPLAIN AND FLOODWAY MANAGEMENT ACT (Floodplain Development Permit)**

### **Who Must Apply**

Anyone planning new construction within a designated 100-year floodplain. Check with the local planning officials or the Floodplain Management Section of the Department of Natural Resources and Conservation to determine whether a 100-year floodplain has been designated for the stream of interest.

### **Activities Requiring a Permit**

New construction including, but not limited to, placement of fill, roads, bridges, culverts, transmission lines, storage of equipment or materials, and excavation; new construction, placement, or replacement of manufactured homes; and new construction, additions, or substantial improvements to residential and commercial buildings.

### **Purpose of the Law**

To restrict floodplain and floodway areas to uses that will not be seriously damaged or present a hazard to life, if flooded, thereby limiting the expenditure of public tax dollars for emergency operations and disaster relief.

### **Who Administers the Law**

Floodplain Development Permits are available from the local floodplain administrator, who may be the city/county planner, sanitarian, building inspector, town clerk, or county commissioner.

### **Application Procedure/Time Line**

Permit applications are available from the local floodplain administrator or from the Department of Natural Resources and Conservation. Application fees are established by the local government and vary widely throughout the state. The application process may take up to 60 days.

### **Regulations Applied to Highways Construction**

New construction or reconstruction of highways, roads, bridges, or culverts that take place within a designated 100-year floodplain must be designed to minimize increases in flood heights, and cannot raise the level of the 100-year flood by more than 0.5 feet. No fill can be placed within a designated floodway.

Additional information and assistance can be obtained from the:

Local Floodplain Administrator,

OR

Department of Natural Resources and Conservation  
Floodplain Management Section  
P.O. Box 201601  
Helena, MT 59620-1601  
(406) 444-6654

A copy of the permit application must be obtained from the local floodplain administrator.



**NAVIGABLE WATER WAYS OWNED BY  
THE STATE OF MONTANA AND ADMINISTERED BY  
THE DEPARTMENT OF STATE LANDS**

-----

The State of Montana's authority to own the riverbeds of navigable waterways and the Department of State Lands' authority to administer these riverbeds are referenced in the following:

1. Equal Footing Doctrine (1844)

Based on a U.S. Supreme Court decision (Pollard vs. Hagen 44 U.S. 212) the original 13 states held ownership of navigable riverbeds consistent with English Law. The Supreme Court held that all new states would enter the Union under equal footing. Therefore, all of the states would own the lands beneath the navigable rivers and lakes.

2. MCA 70-16-201

Provides for state ownership from the low water mark to the low water mark on navigable water bodies.

3. MCA 70-1-202

Provides for state ownership of all land below the water of navigable lakes or streams.

4. MCA 77-1-102

All lands lying and being in and forming a part of the abandoned bed of any navigable stream or lake belongs to the State of Montana, for the School Trust.

5. MCA 70-18-203

Islands and accumulations of land formed in the beds of navigable streams belong to the State of Montana.

As new navigability data is discovered, the list of navigable waterways may be revised as required.



### BIG HOLE RIVER

Based on historical documentation, the Big Hole River is commercially navigable from Steel Creek to Divide, Montana. Therefore, the state claims ownership of the Big Hole River between these two points.

### BIG HORN RIVER

Based on historical documentation, the Big Horn River is commercially navigable from the Wyoming state line to its confluence with the Yellowstone River. Therefore, the state claims ownership of the Big Horn River between these two points.

### BITTERROOT RIVER

Based on historical documentation, the Bitterroot River is commercially navigable from the confluence of its east and west forks to its confluence with the Clark Fork River. Therefore, the state claims ownership of the Bitterroot River between these two points.

### BLACKFOOT RIVER

Based on historical documentation, the Blackfoot River is commercially navigable from Lincoln, Montana to its confluence with the Clark Fork River. Therefore, the state claims ownership of the Blackfoot River between these two points.

### BOULDER RIVER (Tributary to the Yellowstone River)

Based on historical documentation, the Boulder River is commercially navigable from the northern township line of Township 6 South, Range 12 East, to its confluence with the Yellowstone River. The west Boulder River is commercially navigable from the southern line of Township 3 South, Range 11 East, to its confluence with the main stem of the Boulder River. Therefore, the state claims ownership of the Boulder River between these points.

### BULL RIVER

Based on historical documentation, the Bull River is commercially navigable from a point south of Bull Lake to its confluence with the Clark Fork River. Therefore, the state claims ownership of the Bull River between these two points.

### CLARK FORK RIVER

Based on historical documentation, the Clark Fork River is commercially navigable from Deer Lodge, Montana to the Idaho state line. Therefore, the state claims ownership of the Clark Fork River between these two points.

### CLEARWATER RIVER

Based on historical documentation, the Clearwater River is commercially navigable from, and including, Seeley Lake, to its confluence with the Blackfoot River. Therefore, the state claims ownership to Seeley Lake and the Clearwater River between these two points.

### DEARBORN RIVER

Based on historical documentation and court adjudication, the Dearborn River is commercially navigable from Highway 434 to its confluence with the Missouri River. Therefore, the state claims ownership of the Dearborn River between these two points.

### DUPUYER CREEK

See "South Fork Dupuyer Creek".

### FLATHEAD RIVER - MAIN STEM

Based on historical documentation, the main stem of the Flathead River is commercially navigable from the confluence of its north and middle forks to its confluence with the Clark Fork River. However, given Neman court case, the state does not claim any river ownership within the boundaries of the Flathead Indian Reservation at this time. Therefore, the state claims ownership of the main stem of the Flathead River from the western boundary of the Flathead Indian Reservation to its confluence with the Clark Fork River.

### FLATHEAD RIVER - MIDDLE FORK

Based on historical documentation, the middle fork of the Flathead River is commercially navigable from three (3) miles above Nyack, Montana to its confluence with the North fork of the Flathead River. Therefore, the state claims ownership of the middle fork of the Flathead River between these two points.

### FLATHEAD RIVER - NORTH FORK

Based on historical documentation, the north fork of the Flathead River is commercially navigable from Logging Creek to its confluence with the main stem of the Flathead River. Therefore, the state claims ownership of the north fork of the Flathead River between these two points.

### FLATHEAD RIVER - SOUTH FORK

Based on historical documentation, the south fork of the Flathead River is commercially navigable from the face of Hungry Horse Dam to the main stem of the Flathead River. Therefore, the state claims ownership of the south fork of the Flathead River between these two points.

### FORTINE CREEK (Tributary to Tobacco River)

Based on historical documentation, Fortine Creek is commercially navigable from Swamp Creek to its confluence with the Tobacco River. Therefore, the state claims ownership of Fortine Creek between these two points.



### GALLATIN RIVER

Based on historical documentation, the Gallatin River is commercially navigable from Taylor's Fork to Central Park, Montana. Therefore, the state claims ownership of the Gallatin River between these two points.

### GRAVES CREEK (Tributary to Tobacco River)

Based on historical information and Departmental interpretation, Graves Creek is commercially navigable from where Graves Creek intersects the eastern township line of Township 35 North, Range 26 West, to its confluence with the Tobacco River. Therefore, the state claims ownership of Graves Creek between these two points.

### JEFFERSON RIVER

Based on historical documentation, the Jefferson River is commercially navigable from its confluence of the Beaverhead and Ruby Rivers to the Jefferson's confluence with the Missouri River. Therefore, the state claims ownership of the Jefferson River between these two points.

### KOOTENAI RIVER

Based on historical documentation, the Kootenai River is commercially navigable from the Canadian line to the Idaho state line. Therefore, the state claims ownership of the Kootenai River between these two points.

### LOLO CREEK

Based on historical documentation, Lolo Creek is commercially navigable from the mouth of Tevis Creek to Lolo Creek's confluence with the Bitterroot River. Therefore, the state claims ownership of Lolo Creek between these two points.

### MADISON RIVER

Based on historical documentation, the Madison River is commercially navigable from the confluence of its west fork to Varney, Montana. Therefore, the state claims ownership of the Madison River between these two points.

### MARIAS RIVER

Based on historical documentation, the Marias River is commercially navigable from its confluence with the Missouri River to a point five miles upstream. Therefore, the state claims ownership of the Marias River between these two points.

## MILK RIVER

Based on historical documentation, the Milk River is commercially navigable from Glasgow to its confluence with the Missouri River. Therefore, the State claims ownership of the Milk River between these two points.

## MISSOURI RIVER

Based on historical documentation, the Missouri River is commercially navigable from its headwaters at Three Forks, Montana to the North Dakota state line. Therefore, the state claims ownership of the Missouri River between these two points.

## NINE MILE CREEK (Tributary to the Clark Fork River)

Based on historical documentation, Nine Mile Creek is commercially navigable from the southeast corner of Township 17 North, Range 24 West, to its confluence with the Clark Fork River. Therefore, the state claims ownership of Nine Mile Creek between these two points.

## ROCK CREEK (Tributary of the Clark's Fork of the Yellowstone River)

Based on historical documentation, Rock Creek is commercially navigable from the main fork of Rock Creek to Red Lodge, Montana. Therefore, the state claims ownership of Rock Creek between these two points.

## SHEEP CREEK (Tributary to Smith River)

Based on historical documentation, Sheep Creek is commercially navigable from the mouth of Deadman Creek to its confluence with the Smith River. Therefore, the state claims ownership of Sheep Creek between these two points.

## SMITH RIVER

Based on historical documentation, the Smith River is commercially navigable from the mouth of Sheep Creek to its confluence with the Missouri River. Therefore, the state claims ownership of the Smith River between these two points.

## SOUTH FORK DUPUYER CREEK (Tributary to Dupuyer Creek and Marias River)

Based on historical documentation, the south fork of Dupuyer Creek is commercially navigable from the basins above the canyon to the mouth of the canyon, a distance of approximately eight miles. Therefore, the state claims ownership of the south fork of Dupuyer Creek between these two points.

## STILLWATER RIVER

Based on historical documentation, the Stillwater River is commercially navigable from upper Stillwater Lake to its confluence with the Flathead River. Therefore, the state claims ownership of the Stillwater River between these two points.

## SUN RIVER

Based on historical documentation, the Sun River is commercially navigable from the confluence of the north and south forks of the Sun River to its confluence with the Missouri River. Therefore, the state claims ownership of the Sun River between these two points.

## SWAN RIVER

Based on historical documentation, the Swan River is commercially navigable from and including Swan Lake to its confluence with Flathead Lake. Therefore, the state claims ownership of the Swan River between these two points.

## TETON RIVER

Based on historical documentation, the Teton River is commercially navigable from the confluence of its north fork to its confluence with the Marias River. Therefore, the state claims ownership of the Teton River between these two points.

## TOBACCO RIVER

Based on historical documentation, the Tobacco River is commercially navigable from the mouth of Graves Creek to its confluence with the Kootenai River. Therefore, the state claims ownership of the Tobacco River between these two points.

## TONGUE RIVER

Based on historical documentation, the Tongue River is commercially navigable from the south line of Township 2 South, Range 44 East to its confluence with the Yellowstone River. Therefore, the state claims ownership of the Tongue River between these two points.

## WHITEFISH RIVER

Based on historical documentation, the Whitefish River is commercially navigable from, and including, Whitefish Lake to its confluence with the Stillwater River. Therefore, the state claims ownership of the Whitefish River between these two points.

## YAAK RIVER

Based on historical documentation, the Yaak River is commercially navigable from the mouth of Fourth of July Creek to its confluence with the Kootenai River. Therefore, the state claims ownership of the Yaak River.

## YELLOWSTONE RIVER

Based on historical documentation, the Yellowstone River is commercially navigable from Emigrant Gulch at Emigrant, Montana to the North Dakota state line. Therefore, the state claims ownership of the Yellowstone River between these two points.



DEPARTMENT OF NATURAL RESOURCES UNIT OFFICES

<u>Office</u>	<u>Address</u>	<u>Phone #</u>	<u>Counties</u>
<u>STATE OFFICE</u>			
Department Headquarters  Bud Clinch, Commissioner	P O Box 201601 1625 Eleventh Ave Helena MT 59620-1601	444-2074	All
<u>FIELD OFFICES</u>			
<u>CENTRAL LAND OFFICE</u>  Mark Ahner, Area Manager	8001 N Montana Ave. Helena MT 59601	444-3633	Beaverhead, Broadwater, Cascade, Gallatin, Glacier, Jefferson, Lewis & Clark, Madison, Meagher, Park, Pondera, Teton, Toole
Bozeman Unit Office  Jim Kalitowski, Unit Manager	151 Evergreen, Suite C Bozeman MT 59715	586-5243	Madison (E½), Gallatin, Park
Conrad Unit Office  Erik Eneboe, Unit Manager	602 Main P O Box 1456 Conrad MT 59425	278-7869	Glacier, Toole, Pondera, Teton
Dillon Unit Office  Stan Vlahovich, Unit Manager	730 N Montana Street Dillon MT 59725	683-6305	Beaverhead, Madison (W½)
<u>EASTERN LAND OFFICE</u>  Dwayne Andrews, Area Manager	321 Main Street P O Box 1794 Miles City MT 59301	232-2034 232-2045	Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud, Wibaux
<u>NORTHEAST LAND OFFICE</u>  Craig Roberts, Area Manager	613 NE Main St Suite E P O Box 1021 Lewistown MT 59457	538-5989 538-7789	Blaine, Chouteau, Daniels, Fergus, Garfield, Golden Valley, Hill, Judith Basin, Liberty, McCone, Petroleum, Phillips, Roosevelt, Sheridan, Wheatland

<u>Office</u>	<u>Address</u>	<u>Phone #</u>	<u>Counties</u>
Glasgow Unit Office Hoyt Richards Unit Manager	223 Sixth St. So. P O Box 1007 Glasgow MT 59230	228-2430	Phillips, Valley, Daniels, Sheridan, Roosevelt, McCone, Garfield
Lewistown Unit Office Barry Smith, Unit Manager	P O Box 1021 Lewistown MT 59457	538-5989 538-7789	Chouteau, Fergus, Golden Valley, Judith Basin, Petroleum, Wheatland
Havre Unit Office Casey Kellogg, Field Office Manager	P O Box 1828 210 Sixth Avenue Havre MT 59501-1828	265-5236	Blaine, Hill, Liberty
<u>NORTHWEST LAND OFFICE</u> Jon Dahlberg Area Manager	2250 Hwy 93 North Kalispell MT 59901	752-7994	Flathead, Lake, Lincoln, Sanders
Kalispell Unit Office Bill Wright, Unit Manager	2250 Hwy 93 North Kalispell MT 59901	752-7994	S1/3 Flathead, SW2/3 Lake
Libby Unit Office Bill Caldwell, Unit Manager	14096 U.S. Hwy 37 Libby MT 59923	293-2711	SE3/4 Lincoln
Plains Unit Office Bill Wright, Unit Manager	P O Box 219 Plains Airport Plains MT 59859	826-3851	Sanders
Stillwater Unit Office Bob Sandman, Unit Manager	Box 164 Olney MT 59927	881-2371	NE1/4 Lincoln, N1/3 Flathead
Swan River Unit Office Bob Sandman, Unit Manager	Swan River St. Forest Swan Lake MT 59911	754-2301	E1/3 Flathead, NE1/3 Lake
<u>SOUTHERN LAND OFFICE</u> Don Kendall, Area Manager	Airport Industrial Park - IP9 Billings MT 59107	247-4400	Big Horn, Carbon, Mussel- shell, Stillwater, Sweetgrass, Treasure, Yellowstone
<u>SOUTHWEST LAND OFFICE</u> Tony Liane, Area Manager	1401 27th Ave. Missoula MT 59801	542-4200	Deer Lodge, Granite, Mineral, Missoula, Powell, Ravalli, Silver Bow, Lewis & Clark (Lincoln area)



<u>Office</u>	<u>Address</u>	<u>Phone #</u>	<u>Counties</u>
Anaconda Unit Office Fred Staedler, Unit Manager	7916 Highway 1 West Anaconda MT 59711	563-6078	SE2/3 Granite, Silver Bow, S½ Powell, Deer Lodge
Clearwater Unit Office Steve Wallace, Unit Manager	Box 388 Greenough MT 59836	244-5857	NE1/3 Missoula, N½ Powell
Hamilton Unit Office Mark Lewing, Unit Manager	Box 713 Hamilton MT 59840	363-1585	Ravalli
Lincoln Field Office Bill Cyr, Forester	P O Box 127 Lincoln MT 59639	362-4999	Part Lewis & Clark (Lincoln Area)
Missoula Unit Office Ray Erickson, Unit Manager	1500 Tower Street Missoula MT 59801	542-4201	Mineral, SW2/3 Missoula, NW1/3 Granite

FILE: G:\LANDS\LA\OFFICES.TBL

February 2, 2000





## MONTANA LAND-USE LICENSE OR EASEMENT ON NAVIGABLE WATERS

### Who Must Apply

Any entity proposing a project on lands below the low water mark of navigable waters of the State of Montana as determined by the Department of Natural Resources and Conservation (DNRC), Trust Land Management Division.

### Activities Requiring a Permit

The construction, placement, or modification of a structure or improvement on lands below the low water mark of navigable streams. If in doubt, contact the DNRC, Trust Land Management Division, Area Land Office with jurisdiction over the project area for a determination of the navigability of the stream and the location of the low water mark.

### Purposes of the Law

- To protect riparian areas and the navigable status of the water body.
- To provide for the beneficial use of state lands for public and private purposes in a manner that will provide revenues without harming the long-term capability of the land or restricting the original commercial navigability.

### Who Administers the Law

Department of Natural Resources and Conservation

### Application Procedure/Timeline

A DNRC, Trust Land Management Division land-use license or easement application, along with the non-refundable application fee and the Application for Licensing Structures & Improvements on Navigable Water Bodies (Form DS-432), must be submitted to the appropriate Area Land Office. A copy of the navigable waterways owned by the state and must be filled. Copies of the permits are located in the Appendix.

The area Land Office staff will review the application, conduct a field investigation, if necessary, and file an environmental action checklist. A written report and recommendation is then submitted to the Special Uses Bureau, Trust Land Management Division in Helena, which makes the final determination and recommends stipulations as necessary. A Land-Use License can normally be reviewed, approved, and issued within 60 days upon the payment of the \$25 application fee and a minimum annual rental fee set by the Department. The license may be held for a maximum period of ten (10) years, with the ability to request renewal for an additional ten (10) years. An easement requires approval from the Board of Land Commissioners, which normally takes up to 90 days. The current easement application fee is \$50, with an additional easement fee that varies based upon 50 percent of the appraised value of the adjoining property.

For more information, contact:

DNRC Area Land Offices  
Trust Land Management Division

OR

Department of Natural Resources and Conservation  
Trust Land Management Division  
1625 Eleventh Avenue  
P.O. Box 201601  
Helena, MT 59620-1601  
(406)444-2074



*APPLICATION FORM FOR LICENSING STRUCTURES AND IMPROVEMENTS  
ON NAVIGABLE WATER BODIES*

APPLICANT NAME (PLEASE PRINT) \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_

Project Description (include materials to be used, type of structure, any associated structures, purpose, why needed, project map and location, etc.)

Adjacent Property Owners (Name, Address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

County \_\_\_\_\_  $\frac{1}{4}$  \_\_\_\_\_ Sec. \_\_\_\_\_ Twp. \_\_\_\_\_ Rge. \_\_\_\_\_

Nearest City/Town \_\_\_\_\_ Waterway \_\_\_\_\_ River Mile \_\_\_\_\_

Other permits applied for or received (i.e., 124, 310 or 404, if these permits have been received, or correspondence regarding fisheries concerns, water quality, seasonal restrictions, etc., please attach a copy to this application form). \_\_\_\_\_

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_



## **MONTANA WATER USE ACT (Water Right Permit)**

### **Who Must Apply**

Any person, agency, or governmental entity intending to acquire new or additional water rights or change an existing water right in the state. A change is required for any change in use or change in point of division or place of use, even for a short time.

### **On Indian Reservations**

The status of the Montana Water Use Act on Indian Reservations is currently subject to legal challenge in state and federal court. It is recommended that any person, agency or governmental entity intending to acquire a new or additional water use permit apply to the appropriate Tribal government for such use.

### **Water Rights and Road Construction**

The Montana Water Use Act of 1973 established a permit system for water rights. The act requires that a person planning a new or additional development of surface water or groundwater after June 30, 1973, either obtain a Permit to Appropriate Water or file a Notice of Completion of Groundwater Development to get a Certificate of Water Right. The Permit system is administered by DNRC.

A Permit to Appropriate Water must be applied for and received prior to construction of the diversion works or the diversion of water from any surface water source. Withdrawal of surface water for road construction is a diversion and use of water, which requires a Permit to Appropriate Water from DNRC.

Often, companies approach water users and ask for permission to "use" water for road construction. While this is an excellent approach, there are a couple of questions that need to be discussed: 1) Is the water user planning on cutting back their water use by the amount needed by the road construction company? If yes, a temporary Authorization to Change needs to be filed with DNRC. If the answer is no, then the road construction company must file an application for a Permit to Appropriate Water. 2) Are there other water users in the immediate area drawing from the same source? This question is important because of adverse effect. In order to obtain a permit, potential adverse effect to other water users must be addressed.

For groundwater, if the use will be less than 35 gpm or less and will not exceed 10 acre-feet per year, a Notice of Completion of Groundwater Development must be filed with DNRC for a Certificate to be obtained. If the use will be greater than 35 gpm and/or will be greater than 10 acre-feet per year, a Permit to Appropriate Water is required.

Finally, it is important to be aware of controlled Groundwater Areas and Basin Closures as they affect the ability to obtain permits. Attached please find information on Controlled Groundwater Areas and Closures, as well as other information about water rights in Montana.

### **Activities Requiring a Permit**

**General Rule** - A person must obtain a beneficial water use permit **before commencing** to construct new or additional diversion, withdrawal, impoundment, or distribution works for appropriation of groundwater over 35 gallons per minute to 10 acre-feet per year or for any surface water.

**Exceptions** - Groundwater appropriations of 35 gallons per minute or less and 10 acre-feet or less and stockwater impoundments of less than 15 acre-feet must first be appropriated and put to beneficial use before a water right will be issued.

### **Types of Water Rights**

**Provisional Permit** - Grants the use of water for a specific amount and purpose.

**Temporary Permit** - The same as the provisional permit, except it has an expiration date.

**Certificate of Water Right** - Issued on groundwater appropriations of 35 gallons per minute or less and 10 acre-feet or less.

**Authorization to Change** - Allows an appropriator with a recognized water right to change the place of use, point of diversion, purpose of use, or place of storage and maintain the priority date of the initial water right.

**Temporary Change** - Allows an appropriator to change the water right temporarily for a period of up to ten (10) years. No authorization is required for the water right to revert to the original purpose, point of diversion, place of use, or place of storage after the term expires.

#### **Purposes of the Law**

- To provide a permit and certificate system of water rights administration similar to systems used in other Western states.
- To maintain a general adjudication of all existing water rights in the state.
- To implement a centralized record system in addition to the local courthouse records.

#### **Who Administers the Law**

Water Rights Bureau, Department of Natural Resources and Conservation (DNRC).

#### **Application Procedure/Timeline**

Water right application forms are available at all 56 county clerk and recorders' offices and at the nine Water Resources regional Offices located in **Billings, Bozeman, Glasgow, Havre, Helena, Kalispell, Lewistown, Miles City, and Missoula.**

**Water right applications may take up to six (6) months to complete. The water permit has an application fee. There is a fee for an application for a change. There is a fee for a Certificate of Water right on groundwater developments of 35 gpm or less and 10 acre-feet or less.**

For more information, contact:

Water Rights Bureau  
Department of Natural Resources and Conservation  
P.O. Box 201601  
Helena, MT 59620-1601  
(406)444-6610

OR

Local DNRC Water Resources Regional Office



**CRITERIA ADDENDUM**  
**APPLICATION FOR BENEFICIAL WATER USE PERMIT**  
**SIDE A - FOR APPROPRIATIONS LESS THAN 5.5 CFS AND 4,000 AC-FT**

Section 85-2-311(1), MCA, provides the Department shall approve a water use permit for an appropriation of less than 5.5 CFS and 4,000 AC-FT of water if the applicant proves by a preponderance of evidence the criteria listed below are met.

The information requested by this supplement together with the application is necessary for the Department to process an application. It is the applicant's responsibility to provide credible, relevant, and factual information upon which the Department may rely to support the issuance of a provisional permit.

It is your responsibility to obtain any necessary easement or right-of-way. If public lands are involved, such as State of Montana or BLM, contact the appropriate agency. The water right may need to be in their name.

***BASIN CLOSURE AREAS:*** *There are several closed basins in Montana. Within these basins, additional criteria must be met before a permit can be issued. Check with the local Regional Office to determine if your diversion is located within a closed basin.*

***WATER QUALITY CRITERIA:*** *If a party files a valid objection containing substantial credible information establishing to the satisfaction of the Department that the water quality criteria, as applicable, may not be met, the applicant will be required to prove the following: 1) the water quality of an appropriator will not be adversely affected; 2) the proposed use will be substantially in accordance with the classification of water set for the source of supply pursuant to 75-5-301(1); or 3) the ability of a discharge permit holder to satisfy effluent limitations of a permit issued in accordance with Title 75, chapter 5, part 4, will not be adversely affected.*

**ON A SEPARATE ATTACHMENT FURNISH THE FOLLOWING:**

1. information to prove there is water physically available at the proposed point of diversion in the amount you seek to appropriate;
2. information or data to prove water is legally available during the period and in the amount you request;
3. information to prove the proposed use of water will not adversely affect a prior appropriator using an existing water right, a certificate, a permit, or a state water reservation. Include how you plan to exercise and control your project to ensure prior appropriators will be satisfied.
4. describe the proposed means of diversion, construction, and operation of the diversion works you intend to use and present evidence to prove the means of diversion, construction and operation are adequate;
5. information and data to prove the proposed use is a beneficial use of water and the flow rate and volume requested is reasonable.

**PROJECT PLAN & TIME LINE:**

Once you receive your permit when will you begin construction? Provide a general project plan and time line for purchasing and installing equipment, the anticipated completion date, and a description of when and how much water will be put to beneficial use.

The completion date is the time by which the diversion works will be operating and the permitted water used to the fullest extent planned.

## CRITERIA ADDENDUM

### APPLICATION FOR BENEFICIAL WATER USE PERMIT

#### SIDE B - FOR APPROPRIATIONS GREATER THAN 5.5 CFS AND 4,000 AC-FT

Section 85-2-311(3), MCA, provides the Department shall approve a water use permit for an appropriation of greater than 5.5 CFS and 4,000 AC-FT of water of water if the applicant proves by clear and convincing evidence the criteria listed below are met.

The information requested by this supplement together with the application is necessary for the Department to process an application. It is the applicant's responsibility to provide credible, relevant, and factual information upon which the Department may rely to support the issuance of a provisional permit.

It is your responsibility to obtain any necessary easement or right-of-way. If public lands are involved, such as State of Montana or BLM, contact the appropriate agency. The water right may need to be in their name.

**BASIN CLOSURE AREAS:** *There are several closed basins in Montana. Within these basins, additional criteria must be met before a permit can be issued. Check with the local Regional Office to determine if your diversion is located within a closed basin.*

**WATER QUALITY CRITERIA:** *If a party files a valid objection containing substantial credible information establishing to the satisfaction of the Department that the water quality criteria, as applicable, may not be met, the applicant will be required to prove the following: 1) the water quality of an appropriator will not be adversely affected; 2) the proposed use will be substantially in accordance with the classification of water set for the source of supply pursuant to 75-5-301(1); or 3) the ability of a discharge permit holder to satisfy effluent limitations of a permit issued in accordance with Title 75, chapter 5, part 4, will not be adversely affected.*

**OUT-OF-STATE:** *For out-of-state water use, an applicant must also prove by clear and convincing evidence the criteria in § 85-2-311(4).*

#### ON A SEPARATE ATTACHMENT PROVIDE CLEAR AND CONVINCING EVIDENCE PROVING:

1. information to prove there is water physically available at the proposed point of diversion in the amount you seek to appropriate;
2. information or data to prove water is legally available during the period and in the amount you request;
3. information to prove the proposed use of water will not adversely affect a prior appropriator using an existing water right, a certificate, a permit, or a state water reservation. Include how you plan to exercise and control your project to ensure prior appropriators will be satisfied.
4. describe the proposed means of diversion, construction, and operation of the diversion works you intend to use and present evidence to prove the means of diversion, construction and operation are adequate;
5. information and data to prove the proposed use is a beneficial use of water and the flow rate and volume requested is reasonable.

the proposed use is a reasonable use; address the following:

- a. describe the existing demands on the State water supply as well as projected demands of water for future beneficial purposes including municipal water supplies, irrigation systems, and minimum streamflows for the protection of existing water rights and aquatic life;
- b. describe the benefits of the proposed use to the applicant and the State of Montana;
- c. describe the effects on the quantity and quality of water for existing uses in the source of supply;
- d. describe the availability and the feasibility of using low-quality water (meaning not potable for human consumption) for the purpose for which the application has been made;
- e. describe the effect on private property rights by any creation of or contribution to saline seep; and
- f. the probable significant adverse environmental impacts of the proposed use of water.

If the water applied for is to be appropriated in excess of that which will be solely used by the applicant or if it will be marketed by the applicant to other users, information detailing the following is required: a) each person who will use the water and the amount of water each person will use; b) the proposed place of use of all water by each person; c) the nature of the relationship between the applicant and each person using the water; and d) each firm contractual agreement for the specified amount of water for each person using the water.

**PROJECT PLAN & TIME LINE:** Once you receive your permit when will you begin construction? Provide a detailed project plan and time line for purchasing and installing equipment, the anticipated completion date, and a description of when and how much water will be put to beneficial use.

The completion date is the time by which the diversion works will be operating and the permitted water used to the fullest extent planned.

# APPLICATION FOR BENEFICIAL WATER USE PERMIT

Use for groundwater in excess of 35 GPM or 10 Acre-Feet  
per year and all surface water.

## INSTRUCTIONS

Use one application for each source of supply or each development. Check all appropriate boxes and fill in each blank. If any question is not applicable, enter NA. If more space is needed, attach additional sheets. The information required in the Form 600 A or B Criteria Addendum must be submitted with this application.

A MAP MUST ACCOMPANY THIS APPLICATION AS INSTRUCTED UNDER ITEM 11.

Complete the application and submit it with the appropriate filing fee to the Water Resources Regional Office nearest you. Their addresses are listed on the back. The form will be returned if any of the pertinent information is incomplete.

**FILING FEE: \$200.00**

## FOR DEPARTMENT USE ONLY

Application No. \_\_\_\_\_ Basin \_\_\_\_\_  
Priority Date \_\_\_\_\_ 19 \_\_\_\_\_  
Time \_\_\_\_\_ AM / PM  
Rec'd By \_\_\_\_\_  
Fee Rec'd \_\_\_\_\_  
Check No. \_\_\_\_\_  
Transmittal No. \_\_\_\_\_  
Refund \_\_\_\_\_

1. **NAME OF APPLICANT** \_\_\_\_\_

Mailing address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Home Phone \_\_\_\_\_ Other Phone \_\_\_\_\_

2. **SOURCE OF WATER SUPPLY:**

☐ Well

☐ Developed Spring

☐ Lake Name \_\_\_\_\_ Tributary to \_\_\_\_\_

☐ Stream Name \_\_\_\_\_ Tributary to \_\_\_\_\_

☐ Unnamed Source - Tributary to \_\_\_\_\_

☐ Closed Basin (A closed basin results when water drains into a depression, lake, etc. from which water escapes only by evaporation.)

3. **POINT OF DIVERSION** (Describe the location to the nearest 10 acres)

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 Section \_\_\_\_\_ Township \_\_\_\_\_ N/S Range \_\_\_\_\_ E/W \_\_\_\_\_ County

Lot \_\_\_\_\_ Block \_\_\_\_\_ Tract No. \_\_\_\_\_ Subdivision Name \_\_\_\_\_

Government Lot \_\_\_\_\_

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 Section \_\_\_\_\_ Township \_\_\_\_\_ N/S Range \_\_\_\_\_ E/W \_\_\_\_\_ County

Lot \_\_\_\_\_ Block \_\_\_\_\_ Tract No. \_\_\_\_\_ Subdivision Name \_\_\_\_\_

Government Lot \_\_\_\_\_

4. **MEANS OF DIVERSION:**

☐ Headgate

☐ Pump

☐ Well \_\_\_\_\_ Depth in Feet \_\_\_\_\_

\_\_\_\_\_ Rated Capacity (GPM or CFS)

☐ Pipeline \_\_\_\_\_ Size \_\_\_\_\_

\_\_\_\_\_ Horsepower

☐ Dam

\_\_\_\_\_ Lift in Feet

☐ Pit

☐ Other \_\_\_\_\_

**MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION**

48 N. LAST CHANCE GULCH P.O. BOX 201601 HELENA, MT 59620-1601 444-6610



5. **RESERVOIR** (See formulas below for computing capacity)

- ☐ Drainage device will be installed  
☐ Existing Reservoir  
☐ Proposed New or Enlarged Reservoir  
☐ Reservoir will be located away from source

Capacity \_\_\_\_\_ acre-feet  
 Capacity \_\_\_\_\_ acre-feet

Location: \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 Section \_\_\_\_\_ TWP \_\_\_\_\_ N/S RGE \_\_\_\_\_ E/W

PIT: Surface Area \_\_\_\_\_ Acres x Maximum Depth \_\_\_\_\_ Feet x 0.5 = \_\_\_\_\_ Acre-Feet  
 Capacity \_\_\_\_\_

DAM: Surface Area \_\_\_\_\_ Acres x Maximum Depth \_\_\_\_\_ Feet x 0.5 = \_\_\_\_\_ Acre-Feet  
 Capacity \_\_\_\_\_

6. **PERIOD OF APPROPRIATION** (The period during the year when the water will be diverted, impounded, or withdrawn from the source.)

\_\_\_\_\_ Month / Day to \_\_\_\_\_ Month / Day Inclusive Each Year

7. **PROPOSED BENEFICIAL USE**

- ☐ Domestic: Number of Families to be Supplied \_\_\_\_\_  
☐ Stock: Maximum Number and Type \_\_\_\_\_  
☐ Other: \_\_\_\_\_

- ☐ Irrigation: ☐ Sprinkler - Type \_\_\_\_\_ ☐ Contour Ditch ☐ Other \_\_\_\_\_  
☐ Border Dike ☐ Waterspreading/Spreader Dike

Crops to be grown: \_\_\_\_\_

If this water will be used on land already irrigated, indicate the water rights applicable to the existing irrigation.

Claim No. \_\_\_\_\_

Permit No. \_\_\_\_\_

Certificate No. \_\_\_\_\_ Other \_\_\_\_\_

8. **PLACE OF USE**

County \_\_\_\_\_ Subdivision Name \_\_\_\_\_

**Irrigation**

**New (N) or Supplemental (S)**

\_\_\_\_\_ Acres Lot \_\_\_\_\_ Block \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 Section \_\_\_\_\_ TWP \_\_\_\_\_ N/S RGE \_\_\_\_\_ E/W N-S  
 \_\_\_\_\_ Acres Lot \_\_\_\_\_ Block \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 Section \_\_\_\_\_ TWP \_\_\_\_\_ N/S RGE \_\_\_\_\_ E/W N-S  
 \_\_\_\_\_ Acres Lot \_\_\_\_\_ Block \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 Section \_\_\_\_\_ TWP \_\_\_\_\_ N/S RGE \_\_\_\_\_ E/W N-S  
 \_\_\_\_\_ Acres Lot \_\_\_\_\_ Block \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 Section \_\_\_\_\_ TWP \_\_\_\_\_ N/S RGE \_\_\_\_\_ E/W N-S  
 \_\_\_\_\_ Acres Lot \_\_\_\_\_ Block \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 Section \_\_\_\_\_ TWP \_\_\_\_\_ N/S RGE \_\_\_\_\_ E/W N-S  
 \_\_\_\_\_ Acres Lot \_\_\_\_\_ Block \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 Section \_\_\_\_\_ TWP \_\_\_\_\_ N/S RGE \_\_\_\_\_ E/W N-S  
 \_\_\_\_\_ Acres Lot \_\_\_\_\_ Block \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 Section \_\_\_\_\_ TWP \_\_\_\_\_ N/S RGE \_\_\_\_\_ E/W N-S

TOTAL ACRES

**Non - Irrigation**

Purpose of use \_\_\_\_\_ if same as Point of Diversion, CHECK ☐

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 Section \_\_\_\_\_ TWP \_\_\_\_\_ N/S RGE \_\_\_\_\_ E/W County \_\_\_\_\_

Lot \_\_\_\_\_ Block \_\_\_\_\_ Tract No. \_\_\_\_\_ Government Lot \_\_\_\_\_

Purpose of use \_\_\_\_\_ if same as Point of Diversion, CHECK ☐

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 Section \_\_\_\_\_ TWP \_\_\_\_\_ N/S RGE \_\_\_\_\_ E/W County \_\_\_\_\_

Lot \_\_\_\_\_ Block \_\_\_\_\_ Tract No. \_\_\_\_\_ Government Lot \_\_\_\_\_

9. AMOUNT OF WATER, PURPOSE OF USE (IRRIGATION, STOCK, DOMESTIC, OTHER), AND PERIOD OF USE

CFS	GPM up to	Acre-Feet	for	Use	from	Month/Day	to	Month/Day
CFS	GPM up to	Acre-Feet	for	Use	from	Month/Day	to	Month/Day
CFS	GPM up to	Acre-Feet	for	Use	from	Month/Day	to	Month/Day

TOTAL AMOUNT REQUESTED \_\_\_\_\_ CFS GPM UP TO \_\_\_\_\_ ACRE-FEET PER YEAR.

10. PROPOSED COMPLETION PERIOD

\_\_\_\_\_ Years How many years will be needed to complete the project and put the water to use **after** the permit is received?  
(NOTE: The water use must not begin until a permit is received.)

11. LOCATION MAP

A map showing the following items **must** accompany this application. An ASCS aerial photo or USGS topographic map may be used.

- |                                |  |   |
|--------------------------------|--|---|
| a) Section Corners and Numbers | c) Point of Diversion                                | e) Location of Conveyance Ditch, Pipeline, etc. |
| b) Township and Range Numbers  | d) Place of Use (Irrigated Acres, Stock Tanks, etc.) |   |

12. REMARKS (Provide any additional information to explain the proposed appropriation.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. ARE YOU REPRESENTED BY COUNSEL?

☐ YES (complete the following)

☐ NO (go on to no. 14)

NAME OF COUNSEL \_\_\_\_\_

Mailing address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_

14. AFFIDAVIT

I affirm that statements appearing here are to the best of my knowledge true and correct. I also affirm I have possessory interest in the property where the water is to be put to beneficial use and if applicable, exclusive property rights in the groundwater development or the written consent of the person with those rights.

Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_  
\_\_\_\_\_ Date \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_



Notary's Signature \_\_\_\_\_

Notary for the State of \_\_\_\_\_

Residing at \_\_\_\_\_

My commission expires \_\_\_\_\_



## WATER RESOURCES REGIONAL OFFICES

### Billings

1537 Avenue D, Suite 121  
Billings, MT 59102  
Phone: 406-657-2105  
Fax: 406-245-2064  
Serving: Big Horn, Carbon, Carter  
Custer, Fallon, Powder River, Prairie,  
Rosebud, Stillwater, Sweet Grass,  
Treasure, and Yellowstone Counties

### Bozeman

151 Evergreen Drive, Suite C  
Bozeman, MT 59715  
Phone: 406-586-3136  
Fax: 406-587-9726  
Serving: Gallatin, Madison, and  
Park Counties

### Glasgow

222 6th Street South  
P.O. Box 1269  
Glasgow, MT 59230-1269  
Phone: 406-228-2561  
Fax: 406-228-8706  
Serving: Daniels, Dawson, Garfield,  
McCone, Phillips, Richland,  
Roosevelt, Sheridan, Valley, and  
Wibaux Counties

### Havre

210 6th Avenue  
P.O. Box 1828  
Havre, MT 59501-1828  
Phone: 406-265-5516  
Fax: 406-265-2225  
Serving: Blaine, Chouteau,  
Glacier, Hill, Liberty, Pondera,  
Teton, and Toole Counties

### Helena

21 North Last Chance Gulch  
P.O. Box 201601  
Helena, MT 59620-1601  
Phone: 406-449-0944  
Fax: 406-442-9315  
Serving: Beaverhead, Broadwater,  
Deer Lodge, Jefferson, Lewis and  
Clark, Powell, and Silver Bow Counties

### Kalispell

109 Cooperative Way, Suite 110  
Kalispell, MT 59901-2387  
Phone: 406-752-2283  
Fax: 406-752-2843  
Serving: Flathead, Lake, Lincoln,  
and Sanders Counties

### Lewistown

613 NE Main Street, Suite E  
Lewistown, MT 59457-2020  
Phone: 406-538-7459  
Fax: 406-538-7089  
Serving: Cascade, Fergus, Golden  
Valley, Judith Basin, Meagher,  
Musselshell, Petroleum, and  
Wheatland Counties

### Missoula

Town and Country Shopping Center  
1610 South 3rd Street West, Suite 103  
P.O. Box 5004  
Missoula, MT 59806-5004  
Phone: 406-721-4284  
Fax: 406-542-1496  
Serving: Granite, Mineral,  
Missoula, and Ravalli Counties

For Mailing, Use Post Office Box Number.

**SIDE A**

Fee Rec'd \_\_\_\_\_

Check No. \_\_\_\_\_

Transmittal No. \_\_\_\_\_

**REQUEST FOR  
EXISTING WATER RIGHTS LIST**

• FEE: \$10.00 MUST BE SUBMITTED WITH THIS FORM. •

**INSTRUCTIONS:**

Use this form to request a listing of water rights which may be adversely affected by your proposed diversion of water. You should receive the report within one week from the time the Department receives your request.

For SURFACE WATER, complete side A. For GROUNDWATER, complete side B. For developed springs, both surface and groundwater water right may need to be research. If so, complete both side A and side B.

The printout you receive is prepared for complete sections of land, i.e. All of Section 31, Twp. 32N, Rge. 16E. Some of the listed water rights may not be affected by your proposed use for various reasons. For instance, some rights may be on another source, upstream from your proposed diversion or outside a 1/2 mile radius of your well. Eliminate the rights which do not apply to you and adjust the total flow rate and volume figures accordingly.

For help completing this form, contact your local Water Resources Regional Office.

**SURFACE WATER:**

You should review water rights approximately three miles downstream of your point of diversion, therefore, identify the land descriptions for three miles downstream. For each land description entered, check UNNAMED TRIBUTARY (UT) or enter the STREAM NAME. If you check UT, the report will show unnamed tributaries within the land descriptions entered. If you only need water rights on the named stream for the land descriptions entered, enter the STREAM NAME.

For each land description entered, check UNNAMED TRIBUTARY or enter the STREAM NAME.

Enter the sections, townships and ranges for the area affected. Use whole section numbers.

Circle N = North or S = south for the township and E = East or W = West for the range.

UT	STREAM NAME	SECTION(s)	TOWNSHIP	RANGE
			N / S	E / W
			N / S	E / W
			N / S	E / W
			N / S	E / W
			N / S	E / W
			N / S	E / W
			N / S	E / W

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone No.: Home - \_\_\_\_\_ Work - \_\_\_\_\_

Mail form to: Department of Natural Resources and Conservation (DNRC),  
P.O. Box 201601, Helena, Montana 59620-1601. Phone: 406-444-6610



**GROUNDWATER:** (Wells and developed springs)

You should review water rights within approximately a one-half mile radius of your point of diversion, therefore, identify the land descriptions for a one-half mile radius.

Enter the sections, townships and ranges for the area affected. Use whole section numbers.

Circle **N** = North or **S** = south for the township and **E** = East or **W** = West for the range.

SECTION(s)	TOWNSHIP	RANGE
	N / S	E / W
	N / S	E / W
	N / S	E / W
	N / S	E / W
	N / S	E / W

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone No.: Home - \_\_\_\_\_ Work - \_\_\_\_\_

Mail form to: Department of Natural Resources and Conservation (DNRC),  
P.O. Box 201601, Helena, Montana 59620-1601. Phone: 406-444-6610

• MONTANA WATER RESOURCES REGIONAL OFFICES •

**Billings**

1537 Avenue D, Suite 121  
Billings, MT 59102  
Phone: 406-657-2105  
Fax: 406-245-2064  
Serving: Big Horn, Carbon, Carter  
Custer, Fallon, Powder River, Prairie,  
Rosebud, Stillwater, Sweet Grass,  
Treasure, and Yellowstone Counties

**Havre**

2106th Avenue  
P.O. Box 1828  
Havre, MT 59501-1828  
Phone: 406-265-5516  
Fax: 406-265-2225  
Serving: Blaine, Chouteau,  
Glacier, Hill, Liberty, Pondera,  
Teton, and Toole Counties

**Lewistown**

613 NE Main Street, Suite E  
Lewistown, MT 59457-2020  
Phone: 406-538-7459  
Fax: 406-538-7089  
Serving: Cascade, Fergus, Golden  
Valley, Judith Basin, Meagher,  
Musselshell, Petroleum, and  
Wheatland Counties

**Bozeman**

151 Evergreen Drive, Suite C  
Bozeman, MT 59715  
Phone: 406-586-3136  
Fax: 406-587-9726  
Serving: Gallatin, Madison, and  
Park Counties

**Helena**

21 North Last Chance Gulch  
P.O. Box 201601  
Helena, MT 59620-1601  
Phone: 406-449-0944  
Fax: 406-442-9315  
Serving: Beaverhead, Broadwater,  
Deer Lodge, Jefferson, Lewis and  
Clark, Powell, and Silver Bow Counties

**Missoula**

Town and Country Shopping Center  
1610 South 3rd Street West, Suite 103  
P.O. Box 5004  
Missoula, MT 59806-5004  
Phone: 406-721-4284  
Fax: 406-542-1496  
Serving: Granite, Mineral,  
Missoula, and Ravalli Counties

**Glasgow**

222 6th Street South  
P.O. Box 1269  
Glasgow, MT 59230-1269  
Phone: 406-228-2561  
Fax: 406-228-8706  
Serving: Daniels, Dawson, Garfield,  
McCone, Phillips, Richland,  
Roosevelt, Sheridan, Valley, and  
Wibaux Counties

**Kalispell**

109 Cooperative Way, Suite 110  
Kalispell, MT 59901-2387  
Phone: 406-752-2288  
Fax: 406-752-2843  
Serving: Flathead, Lake, Lincoln,  
and Sanders Counties

For Mailing, Use Post Office Box Number.

# APPLICATION TO CHANGE A WATER RIGHT

## INSTRUCTIONS

Use this form to apply to change the point of diversion, place of use, purpose of use, or place of storage of your water right. Attach a map as instructed under Item 6. Complete the application addendum to substantiate the criteria for issuance of an authorization is met according to 85-2-402 MCA. Failure to supply a map or application addendum constitutes an incomplete application and the application will be terminated. Submit the completed application with the proper filing fee to the appropriate Water Resources Regional Office listed on the back page.

**Filing Fee: Replacement Wells or Reservoirs: \$25.00**  
**All Others: \$200.00**

## FOR DEPARTMENT USE ONLY

Application No. \_\_\_\_\_  
Date Received \_\_\_\_\_  
Time \_\_\_\_\_ AM / PM  
Rec'd By \_\_\_\_\_  
Fee Rec'd \$ \_\_\_\_\_  
Check No. \_\_\_\_\_  
Transmittal No. \_\_\_\_\_  
Refund \_\_\_\_\_ Date \_\_\_\_\_

- 1. WATER RIGHT OWNER** \_\_\_\_\_  
Mailing address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Home phone \_\_\_\_\_ Other phone \_\_\_\_\_
- 2. WATER RIGHT TO BE CHANGED** (Check the appropriate box, provide the water right number, and attach a copy of the water right.)
  - ☐ (W) Statement of Claim No(s). \_\_\_\_\_
  - ☐ (E) Exempt Existing Water Right  
(No Statement of Claim Filed — Groundwater or instream domestic or stock uses.)  
Complete Item 7 or provide Water Right # \_\_\_\_\_
  - ☐ (D) Powder River Decree No(s). \_\_\_\_\_
  - ☐ (P) Permit to Appropriate Water No(s). \_\_\_\_\_
  - ☐ (C) Certificate of Water Right No(s). \_\_\_\_\_
  - ☐ (M) Reservation of Water No(s). \_\_\_\_\_

## 3. AMOUNT OF WATER TO BE CHANGED

\_\_\_\_\_ up to \_\_\_\_\_ per year  
gal./min. or cubic feet/sec. acre-feet

**MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION**

**48 N. LAST CHANCE GULCH P.O. BOX 201601 HELENA, MT 59620-1601 406-444-6610**



4. **TYPE OF PROPOSED CHANGE** Complete **ONLY** the type of change you are proposing. Multiple changes of one right or identical changes of more than one right may be applied for on one application.

**A. Change in POINT OF DIVERSION**

- 1) Location of proposed point of diversion

\_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_ Township \_\_\_\_ N/S Range \_\_\_\_ E/W County \_\_\_\_

Government Lot \_\_\_\_ or Lot \_\_\_\_ Block \_\_\_\_ Subdivision Name \_\_\_\_

\_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_ Township \_\_\_\_ N/S Range \_\_\_\_ E/W County \_\_\_\_

Government Lot \_\_\_\_ or Lot \_\_\_\_ Block \_\_\_\_ Subdivision Name \_\_\_\_

- 2) Is the new point of diversion ☐ in addition to the old point of diversion  
or ☐ replacing the old point of diversion

3) Source of water if changed \_\_\_\_

4) Means of diversion if changed \_\_\_\_

5) If a well is involved indicate the well depths: old well \_\_\_\_ ft. new/proposed well \_\_\_\_ ft.

6) New well is located approximately \_\_\_\_ feet \_\_\_\_ of old well.  
(direction)

**B. Change in PLACE OF USE**

- 1) Describe where you propose to use the water right. For irrigation show the number of acres for each description.

County \_\_\_\_ Subdivision Name \_\_\_\_

\_\_\_\_ Acres Lot \_\_\_\_ Block \_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_ T \_\_\_\_ N/S R \_\_\_\_ E/W

\_\_\_\_ Acres Lot \_\_\_\_ Block \_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_ T \_\_\_\_ N/S R \_\_\_\_ E/W

\_\_\_\_ Acres Lot \_\_\_\_ Block \_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_ T \_\_\_\_ N/S R \_\_\_\_ E/W

\_\_\_\_ Acres Lot \_\_\_\_ Block \_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_ T \_\_\_\_ N/S R \_\_\_\_ E/W

\_\_\_\_ Acres Lot \_\_\_\_ Block \_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_ T \_\_\_\_ N/S R \_\_\_\_ E/W

\_\_\_\_ Total Acres

- 2) If some acres will be taken out of irrigation, identify those acres by location which will no longer be irrigated by this water right.

\_\_\_\_ Acres Lot \_\_\_\_ Block \_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_ T \_\_\_\_ N/S R \_\_\_\_ E/W

\_\_\_\_ Acres Lot \_\_\_\_ Block \_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_ T \_\_\_\_ N/S R \_\_\_\_ E/W

\_\_\_\_ Acres Lot \_\_\_\_ Block \_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_ T \_\_\_\_ N/S R \_\_\_\_ E/W

\_\_\_\_ Acres Lot \_\_\_\_ Block \_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_ T \_\_\_\_ N/S R \_\_\_\_ E/W

\_\_\_\_ Total Acres

**C. Change in PURPOSE OF USE**

- 1) Proposed Use:

Use \_\_\_\_\_, Rate \_\_\_\_\_ cfs  
gpm, Volume \_\_\_\_\_ acre-feet  
Period of Use \_\_\_\_\_ to \_\_\_\_\_  
month/day month/day

**D. Change in PLACE OF STORAGE**

- 1) Location of Proposed Place of Storage

\_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_ Township \_\_\_\_ N/S Range \_\_\_\_ E/W County \_\_\_\_

- 2) Period of Appropriation \_\_\_\_\_ to \_\_\_\_\_  
month/day month/day

- 3) Capacity of Proposed Storage Facility \_\_\_\_\_ acre-feet

5. **COMPLETION SCHEDULE** Estimate how long it will take to complete the change after the Authorization is granted. \_\_\_\_\_

months or years

(COMPLETE means the change is finished, developed, or constructed as authorized.)

What factors were considered in determining this time schedule?

---

---

---

6. **LOCATION MAP**

Attach a map and show the existing system and the changed system as proposed. A copy of an aerial photo or USGS map, which is available at the Water Resources Regional Office may be used. Failure to supply an accurate map constitutes an incomplete application and the application will be terminated. Show the following items.

- Township and range numbers
- Section corners and numbers
- Point(s) of diversion — past and proposed
- Location of conveyance ditch, pipelines, etc.
- Place(s) of use past and proposed (irrigated acres, location of stock tanks)
- Place of storage — past and proposed

7. **FOR WATER RIGHTS EXEMPT FROM ADJUDICATION PROCEEDINGS**

Complete this section only if you have checked Exempt Existing Water Right under part 2 on page 1. This information should pertain to your existing right.

**IMPORTANT NOTE**

Water rights for stock and domestic uses from groundwater sources (wells, developed springs) in use prior to January 1, 1962 or any put to use between January 1, 1962 and July 1, 1973 which were properly filed with the county clerk and recorder under the 1961 Groundwater Code are considered Exempt Existing Water Rights. Instream domestic or stock uses used prior to July 1, 1973 are also considered exempt.

1. **Date the water was first used** \_\_\_\_\_  
(month/day/year)

2. **Date of filing water right in the county courthouse records** \_\_\_\_\_  
(month/day/year) Document No. \_\_\_\_\_

3. **Source of water** \_\_\_\_\_  
(Name of stream or lake, well, spring, etc.)

4. Purpose	Rate (GPM/CFS)	Volume (acre-feet)	Period of Use
_____	_____	_____	_____
_____	_____	_____	_____

5. **Point of Diversion** (describe the location where the water was diverted)

\_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Section \_\_\_\_ Township \_\_\_\_ N/S Range \_\_\_\_ E/W County \_\_\_\_  
Lot \_\_\_\_ Block \_\_\_\_ Subdivision \_\_\_\_\_

**Means of Diversion** (how the water was diverted or withdrawn from the source)

---

6. **Place of Use** (describe the location where the water was used)

Use \_\_\_\_\_  
Lot \_\_\_\_ Block \_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Sec \_\_\_\_ Twp \_\_\_\_ N S Rge \_\_\_\_ W County \_\_\_\_\_

Use \_\_\_\_\_  
Lot \_\_\_\_ Block \_\_\_\_ 1/4 \_\_\_\_ 1/4 \_\_\_\_ 1/4 Sec \_\_\_\_ Twp \_\_\_\_ N S Rge \_\_\_\_ W County \_\_\_\_\_

# 8. CHANGE DESCRIPTION:

Describe how and why you are changing your water right: \_\_\_\_\_

---

---

---

---

---

---

---

---

---

---

# 9. AFFIDAVIT

I affirm that statements appearing here are to the best of my knowledge true and correct. I also affirm I have possessory interest in the property where the water is to be put to beneficial use and if applicable, exclusive property rights in the groundwater development or the written consent of the person with those rights.

Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_



Notary's Signature \_\_\_\_\_

Notary for the State of \_\_\_\_\_

Residing at \_\_\_\_\_

My commission expires \_\_\_\_\_

# WATER RESOURCES REGIONAL OFFICES

## Billings

1371 Rimtop Drive  
Billings, MT 59105-1978  
Phone: 406-247-4415  
Fax: 406-245-2064  
Serving: Big Horn, Carbon, Carter, Custer, Fallon, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, and Yellowstone Counties

## Bozeman

151 Evergreen Drive, Suite C  
Bozeman, MT 59715  
Phone: 406-586-3136  
Fax: 406-587-9726  
Serving: Gallatin, Madison, and Park Counties

## Glasgow

222 6th Street South  
P.O. Box 1269  
Glasgow, MT 59230-1269  
Phone: 406-228-2561  
Fax: 406-228-8706  
Serving: Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, and Wibaux Counties

## Havre

210 6th Avenue  
P.O. Box 1828  
Havre, MT 59501-1828  
Phone: 406-265-5516  
Fax: 406-265-2225  
Serving: Blaine, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties

## Helena

21 North Last Chance Gulch  
P.O. Box 201601  
Helena, MT 59620-1601  
Phone: 406-449-0944  
Fax: 406-442-9315  
Serving: Beaverhead, Broadwater, Deer Lodge, Jefferson, Lewis and Clark, Powell, and Silver Bow Counties

## Kalispell

109 Cooperative Way, Suite 110  
Kalispell, MT 59901-2387  
Phone: 406-752-2288  
Fax: 406-752-2543  
Serving: Flathead, Lake, Lincoln, and Sanders Counties

## Lewistown

613 NE Main Street, Suite E  
Lewistown, MT 59457-2020  
Phone: 406-538-7459  
Fax: 406-538-7089  
Serving: Cascade, Fergus, Golden Valley, Judith Basin, Meagher, Musselshell, Petroleum, and Wheatland Counties

## Missoula

Town and Country Shopping Center  
1610 South 3rd Street West, Suite 103  
P.O. Box 5004  
Missoula, MT 59806-5004  
Phone: 406-721-4284  
Fax: 406-542-1496  
Serving: Granite, Mineral, Missoula, and Ravalli Counties

For Mailing, Use Post Office Box Number.

**SUPPLEMENT TO APPLICATION TO CHANGE A WATER RIGHT****Criteria for Issuance of Authorization to Change**

Section 85-2-402(2), MCA, provides the Department shall approve a change in appropriation right if the appropriator proves by a preponderance of evidence the following criteria are met. It is the applicant's responsibility to provide credible, relevant, and factual information upon which the Department may rely to support the issuance of a change authorization. Your application will not be processed until this supplement is completed.

- A. Provide evidence proving the proposed change will not adversely affect the water rights of other persons or other planned uses or developments for which a permit has been issued or for which water has been reserved.

---

---

---

---

---

---

---

---

- B. Describe the proposed means of diversion, construction, and operation of the diversion works you intend to use and provide evidence proving the diversion, construction and operation are adequate.

---

---

---

---

---

---

---

---

- C. Provide evidence proving the proposed change is a beneficial use of water.

---

---

---

---

**NOTICE**

Additional information is required if the proposed change in purpose of use or place of use involves 4,000 acre-feet or more and 5.5 cubic feet per second or more of water per year or if the proposed change is for withdrawal and transportation for use outside the state.





## INSTRUCTIONS FOR APPLICATION FOR RIGHTS-OF-WAY ON STATE LANDS

WHEN ACCEPTING APPLICATIONS FOR EASEMENTS, THE STATE LAND BOARD  
REQUIRES THE FOLLOWING:

1. An original and one copy of completed application.
2. An original and one copy (or two copies) of plat or survey.
3. A statement signed by the State Surface Lessee which indicates they have made arrangements for compensation for leasehold damages, if any.
4. A statement signed by the applicant which gives the reason(s) why application is made on State land rather than an alternative.
5. A professional Cultural Survey.\*

THE APPLICATION must be signed in a manner which reflects the name of applicant as you wish it to appear on the easement right-of-way deed. Immediately above the signature are spaces to indicate the acreage requested from each 40-acre subdivision or government lot.

IF THE LEGAL subdivision or metes and bounds description does not appear on the plat or survey, it must appear at the top of the reverse side of the application. The surveyor need sign only the survey plat. IT is not necessary for that person to sign in the survey space on the application (if the plat is signed).

IF APPLICATION is being made for a road or utility right-of-way, the survey is normally a metes and bounds centerline description. If the requested right-of-way will cross more than one section of trust land, the survey may include all State tracts on the one survey. However, this is not applicable to the application. A separate legal description and application must be made for each section of land the application is made on. (Separate records are kept in our files on each section and a separate deed is issued for each section.) The plat must show the acreage taken and remaining for each 40-acre tract or lot (Ref. 877-2-102(2)MCA)

UNDER TERMS of a State Surface Lease, the Lessee has the basic right to graze or seed crops on approved acres. The State has retained the right to sell minerals, other non-conflicting uses, and to sell rights-of-way easements. Before the State sells an easement, the Surface Lessee is given the opportunity to be compensated for any damages to Department approved leasehold interests, such as but not limited to road, crops, summer fallow, forage, water developments, buildings and fences.

CHARGES are based on market values of requested acres and are not paid until after Board approval and you have received a statement.

ALL AGENCIES OR PERSONS interested in putting a project on School Trust lands should contact the area office that handles the county the request is in. Contact with the area office should be made before an actual survey is done. After an on-site inspection, the area manager will consider whether the project is in the best interest of the trust. If there are no problems, a survey may be conducted and formal application may be made. All easement applications should be sent to the appropriate area offices for review. Enclosed is a listing of area offices and the counties they manage.

A NON-REFUNDABLE \$50.00 APPLICATION FEE MUST ACCOMPANY THE APPLICATION WHEN SUBMITTED BEFORE ANY PROCESSING WILL BEGIN.

\*To aid in processing an application, a cultural survey conducted by an approved professional is recommended, unless waived by the Department's staff archaeologist. Applicants may elect to wait for department staff to conduct the survey, but should be aware this could delay processing of their application for their project.



APPLICATION FOR RIGHT-OF-WAY EASEMENT IN STATE LANDS  
(Application Fee -- \$50.00)

The best method of describing the land needed for the right-of-way in all such cases is to describe the centerline and give the width on each side.

*Please locate the starting point of the proposed right-of-way by giving its distance and bearing from the nearest public survey monument in the same section; then give the bearing and distance of each course of the line; and locate the terminus in the same manner as the starting point; whenever the line intersects a quarter section line, locate the point of intersection in the same manner also.*

*The description given in the application will be copied into the right-of-way deed. It must be so definite and complete that from it the right-of-way may readily be located upon the ground without the plat.*

*If the right-of-way runs through an intervening tract which is not state land, it may be shown on the tracing or plat, but must not be included in the description in the application as this might result in errors in writing the deed.*

No application should include land in more than one section. Show the acreage required for the right-of-way in each forty-acre tract of State land in the place provided in this blank.

The application must be signed by or for the applicant, and certified correct by the endorsement of the engineer. Write the name of the applicant exactly the way it is to appear in the deed.

**TRACING OR PLAT.** Tracings or plats must accompany the application. These tracings or plats should be so plain that anyone can readily ascertain the section, township and range and see what forty-acre tracts the right-of-way runs through. A scale of 1 inch to 400 feet is commonly used.

There must be two copies of the tracing or plat duly verified by the affidavit of the land surveyor who has prepared the same endorsed thereon. They must show the "quantity of land taken by the proposed highway or street or other easement from each forty-acre tract or government lot of State land over or through which it passes and also the amount of land remaining in each portion of such forty-acre tract or government lot." (Part of Section 77-2-102(2) Montana Code Annotated)

For the sake of reference other than State lands may be shown on the plat, but they should be indicated by different colors. *If the proposed right-of-way follows a river or railroad right-of-way or other right-of-way, such river or right-of-way should be shown and also the area of the intervening strip, if any.*

The affidavit of the surveyor or professional engineer to be endorsed on the tracing or plat should be substantially in the following form:

STATE OF MONTANA

SS.

County of \_\_\_\_\_

\_\_\_\_\_, being duly sworn says: That he/she is the \_\_\_\_\_ who made the survey of the right-of-way shown hereon; that the survey was correctly and accurately made; that the tracing or plat hereof is true and accurate and that it correctly shows the quantity of land required for the right-of-way in each forty-acre tract or government lot and also the amount of land remaining in each portion of such forty-acre tract or government lot.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public for the State of Montana

Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

\_\_\_\_\_, Montana, \_\_\_\_\_, 20\_\_\_\_

To the State Board of Land Commissioners  
State of Montana  
Helena, Montana:

Application is hereby made under the provisions of Section 77-2-101 through Section 77-2-107 of the Montana Codes Annotated, 1979 and Acts amendatory thereto by \_\_\_\_\_

for the right-of-way easement for \_\_\_\_\_

through \_\_\_\_\_, Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_, County of \_\_\_\_\_

Duly verified tracings or plats in duplicate accompany this application and are made a part hereof. The tract or strip of land required for the said right-of-way is more particularly described as follows:

A tract or strip of land \_\_\_\_\_ feet wide, \_\_\_\_\_ feet on each side of a centerline described as follows:

# DESCRIPTION

## ACREAGE TAKEN FROM EACH FORTY OR GOVERNMENT LOT OF STATE LAND

	Forwarded	_____ acres
NE $\frac{1}{4}$ NE $\frac{1}{4}$ _____ acres	NE $\frac{1}{4}$ SW $\frac{1}{4}$ _____ acres	
NW $\frac{1}{4}$ NE $\frac{1}{4}$ _____ acres	NW $\frac{1}{4}$ SW $\frac{1}{4}$ _____ acres	
SW $\frac{1}{4}$ NE $\frac{1}{4}$ _____ acres	SW $\frac{1}{4}$ SW $\frac{1}{4}$ _____ acres	
SE $\frac{1}{4}$ NE $\frac{1}{4}$ _____ acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$ _____ acres	
NE $\frac{1}{4}$ NW $\frac{1}{4}$ _____ acres	NE $\frac{1}{4}$ SE $\frac{1}{4}$ _____ acres	
NW $\frac{1}{4}$ NW $\frac{1}{4}$ _____ acres	NW $\frac{1}{4}$ SE $\frac{1}{4}$ _____ acres	
SW $\frac{1}{4}$ NW $\frac{1}{4}$ _____ acres	SW $\frac{1}{4}$ SE $\frac{1}{4}$ _____ acres	
SE $\frac{1}{4}$ NW $\frac{1}{4}$ _____ acres	SE $\frac{1}{4}$ SE $\frac{1}{4}$ _____ acres	
Forward _____ acres	Total _____ acres	

Signature of Applicant  
(as the same is to appear  
in the deed)

By \_\_\_\_\_

Address \_\_\_\_\_

(SEAL)

## LAND SURVEYOR

I, \_\_\_\_\_, the Land Surveyors who surveyed the right-of-way for which application is hereby made, do hereby certify that the description of the right-of-way as given in this application is accurate and correct in every particular according to the survey and that the acreage required for the right-of-way through each forty-acre tract under this petition is correctly given.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Address \_\_\_\_\_

**REMOVAL OF GRAVEL FROM STATE LANDS  
DEPARTMENT OF NATURAL RESOURCES & CONSERVATION  
AREA CONTACTS**

Barbara Hamburg, Supervisor                      444-4561  
Mineral Leasing Section                      444-2074 - Main Department Number  
Minerals Management Bureau  
Department of Natural Resources & Conservation

If you are on State land, you must have a permit from the Department of Natural Resources & Conservation, Trust Land Management Division to test or remove aggregate.

The Board of Land Commissioners is authorized to lease and permit sand, gravel, and other aggregates for removal and disposition upon such terms and conditions it determines necessary under and pursuant to the terms and provisions of 77-3-201, et seq., MCA, as amended.

**Mineral Leasing Section**

Issues all permits, licenses, and leases to prospect for or remove minerals, including aggregate (sand, gravel, borrow, riprap, etc.) from State lands. Receives and records all royalty payments for minerals, including aggregate, that have been removed from State lands. An additional permit to remove material must be obtained from the Industrial and Energy Minerals Bureau, Department of Environmental Quality, with follow-ups on the reclamation on State lands.

Test Permits, which allow you to test for aggregate on State lands, are issued from our Area and Unit offices.

List of Area and Unit Managers and Counties they cover:

Central Land Office, Helena - 444-3633  
Garry Williams, Manager, Forest & Lands Programs

Lewis & Clark (except Lincoln area)  
Meagher, Jefferson, Broadwater,  
Cascade

Bozeman Unit Office - 586-5243  
Jim Kalitowski, Unit Manager

Gallatin, Madison (E½), Park

Dillon Unit Office - 683-6305  
Stan Vlahovoch, Unit Manager

Beaverhead, Madison (W½)

Conrad Unit Office - 278-7869  
Steve Dobson, Land Use Specialist

Pondera, Glacier, Toole, Teton

Eastern Land Office  
Miles City - 232-2034  
Dwayne Andrews, Area Manager

Carter, Custer, Dawson, Fallon,  
Prairie, Powder River, Richland,  
Rosebud, Wibaux

Southern Land Office  
Billings - 247-4400  
Don Kendall, Area Manager

Big Horn, Carbon, Musselshell,  
Sweetgrass, Stillwater, Treasure,  
Yellowstone

Northeastern Land Office, Lewistown - 538-7789  
Craig Roberts, Area Manager

Lewistown Unit Office - 538-5989  
Barny Smith, Unit Manager

Choteau, Fergus, Golden Valley,  
Judith Basin, Petroleum, Wheatland,  
Blaine, Hill, Liberty

Glasgow Unit Office - 228-2430  
Hoyt Richards, Unit Manager

Daniels, Garfield, McCone,  
Phillips, Roosevelt, Sheridan,  
Valley

Southwestern Land Office, Missoula - 542-4200  
Tony Liane, Area Manager

Missoula Unit Office - 542-4201  
Ray Erickson, Unit Manager

Mineral, Missoula

Hamilton Unit Office - 363-1585  
Mark Lewing, Unit Manager

Ravalli

Clearwater Unit Office - 244-5857  
Steve Wallace, Unit Manager

Lewis & Clark, Powell (North),  
Missoula

Anaconda Unit Office - 563-6078  
Fred Staedler, Unit Manager

Deer Lodge, Granite, Silver Bow,  
Powell (South)

Northwestern Land Office, 2250 Highway 93 N.  
Kalispell - 751-2240  
Jon Dohloerg, Area Manager

Kalispell Unit Office - 751-2240  
Bill Wright, Unit Manager

Flathead, Lake, Lincoln

Libby Unit Office - 293-2711  
Bill Caldwell, Unit Manager

Lincoln

Plains Unit Office - 826-3851  
Marvin Miller, Unit Manager

Sanders

Stillwater Unit Office - 881-2371  
Bob Sandman, Unit Manager

Flathead, Lincoln

Swan River Unit Office - 754-2301  
Glen Gray, Unit Manager

Lake, Flathead, Missoula

LAND USE LICENSE APPLICATION

NAME OF APPLICANT \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

HOME PHONE \_\_\_\_\_ BUSINESS PHONE \_\_\_\_\_

Application is hereby made for access for the following purpose(s):  
Be specific and include map, if appropriate.

SECTION \_\_\_\_\_ TOWNSHIP \_\_\_\_\_ RANGE \_\_\_\_\_

PART OF SECTION  $\frac{1}{4}$   $\frac{1}{4}$   $\frac{1}{4}$  COUNTY \_\_\_\_\_

SECTION \_\_\_\_\_ TOWNSHIP \_\_\_\_\_ RANGE \_\_\_\_\_

PART OF SECTION  $\frac{1}{4}$   $\frac{1}{4}$   $\frac{1}{4}$  COUNTY \_\_\_\_\_

SECTION \_\_\_\_\_ TOWNSHIP \_\_\_\_\_ RANGE \_\_\_\_\_

PART OF SECTION  $\frac{1}{4}$   $\frac{1}{4}$   $\frac{1}{4}$  COUNTY \_\_\_\_\_

DURATION (MONTH) \_\_\_\_\_ (DAY) \_\_\_\_\_ (YEAR) \_\_\_\_\_  
THROUGH (MONTH) \_\_\_\_\_ (DAY) \_\_\_\_\_ (YEAR) \_\_\_\_\_

APPLICANT'S SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

Mail completed form and \$25.00 application fee to the Area Office that handles the county the request is in. After an on-site inspection, the Area Manager will consider whether the access is in the best interest of the trust. All applications should be sent to the appropriate Area Offices for review. Enclosed is a listing of Area Offices and the counties they manage.



**DEPARTMENT OF NATURAL RESOURCES & CONSERVATION  
TRUST LAND MANAGEMENT DIVISION CONTACTS**

<b>COUNTIES</b>			<b>CENTRAL LAND OFFICE</b>
Beaverhead	Jefferson	Pondera	Attn: Trust Land Area Manager 8001 North Montana Avenue Helena, MT 59601  PH: 444-3633
Broadwater	Lewis & Clark	Teton	
Cascade	Madison	Toole	
Gallatin	Meagher		
Glacier	Park		
<b>COUNTIES</b>			<b>EASTERN LAND OFFICE</b>
Carter	Prairie		Attn: Trust Land Area Manager P.O. Box 1794 Miles City, MT 59301-1794  PH: 232-2034
Custer	Richland		
Dawson	Rosebud		
Fallon	Wibaux		
Powder River			
<b>COUNTIES</b>			<b>NORTHEASTERN LAND OFFICE</b>
Blaine	Hill	Roosevelt	Attn: Trust Land Area Manager P.O. Box 1021 Lewistown, MT 59457-1021  PH: 538-5989
Chouteau	Judith Basin	Sheridan	
Daniels	Liberty	Valley	
Fergus	McCone	Wheatland	
Garfield	Petroleum		
Golden Valley	Phillips		
<b>COUNTIES</b>			<b>NORTHWESTERN LAND OFFICE</b>
Flathead			Attn: Trust Land Area Manager 2250 Highway 93 North Kalispell, MT 59901  PH: 752-7994
Lake			
Lincoln			
Sanders			
<b>COUNTIES</b>			<b>SOUTHERN LAND OFFICE</b>
Big Horn	Sweet Grass		Attn: Trust Land Area Manager Airport Industrial Park - IP9 Billings, MT 59105-1978  PH: 259-3264
Carbon	Treasure		
Musselshell	Yellowstone		
Stillwater			
<b>COUNTIES</b>			<b>SOUTHWESTERN LAND OFFICE</b>
Deer Lodge	Powell		Attn: Trust Land Area Manager 1401 - 27th Avenue Missoula, MT 59801-4733  PH: 542-4200
Granite	Ravalli		
Mineral	Silver Bow		
Missoula			

APPLICATION FOR PERMIT TO TAKE AND REMOVE  
FROM STATE LANDS

NAME OF APPLICANT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

Application is hereby made on the following described land:

SECTION: \_\_\_\_\_ TOWNSHIP: \_\_\_\_\_ RANGE: \_\_\_\_\_

PART OF SECTION  $\frac{1}{4}$   $\frac{1}{4}$   $\frac{1}{4}$ ;  $\frac{1}{4}$   $\frac{1}{4}$   $\frac{1}{4}$ ;  $\frac{1}{4}$   $\frac{1}{4}$   $\frac{1}{4}$

**\*\*PLEASE BREAK DESCRIPTION INTO 10-ACRE PARCELS**

COUNTY: \_\_\_\_\_ ACRES INVOLVED \_\_\_\_\_

The total quantity of \_\_\_\_\_ needed at this time will be  
\_\_\_\_\_ cubic yards, which will be taken and removed prior to  
MONTH: \_\_\_\_\_ DAY: \_\_\_\_\_ YEAR: \_\_\_\_\_, and used for the purpose of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IT IS HEREBY explicitly agreed that Permittee will pay the set royalties.

DATED AT \_\_\_\_\_ THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

APPLICANT SIGNATURE \_\_\_\_\_



## CONSTRUCTION AND CULTURAL RESOURCES

### LEGAL AUTHORITIES

By the time a project gets to the construction phase, procedural laws pertaining to cultural resources should, for the most part, already be satisfied. However, despite the best efforts of archaeologists and historians, sites are often missed. Should archaeological or historical artifacts turn up during construction, Section 107.22 in the Standard Specifications for Road and Bridge Construction should be followed. The following are statutes that may apply.

#### 1. STATE OF MONTANA

##### A. Human Remains and Burial Site Protection Act

This law pertains to all human skeletal remains, burial sites and burial material, including those in marked, unmarked, unrecorded, registers, or unregistered graves or burial grounds located on state or private lands in Montana. **The law states, "A person who by archaeological excavation or by agricultural, mining, construction, or other ground-disturbing activity discovers human remains, a burial site, or burial material shall immediately notify the county coroner."** Failure to immediately stop work in the vicinity of the discovery and call the coroner subjects a person to a series of fines and/or jail time described in the bill.

##### B. Montana Antiquities Act

This law mandates that the State "... avoid, whenever feasible, state actions or state assisted or licensed actions that substantially alter heritage properties or paleontological remains on lands owned by the state ..." The law also requires that the discovery of archaeological or paleontological material be reported to the Montana State Historic Preservation Office (SHPO).

#### 2. FEDERAL LAWS

##### A. Section 106 of the National Historic Preservation Act (Section 106)

The Section 106 regulations begin, "Section 106 of the National Historic Preservation Act requires a Federal agency head with jurisdiction over a Federal, federally assisted, or federally licensed undertaking to take into account the effects of the agency's undertaking on properties included in or eligible for the National Register of Historic Places and, prior to approval of an undertaking, to afford the Advisory Council on Historic Preservation an opportunity to comment on the undertaking." Thus, MDT must identify cultural resources and evaluate the significance of them. MDT then assesses the effects the undertaking is likely to have on those resources and allow the Montana State Historic Preservation Office the opportunity to comment on our findings prior to construction of a project. **Contractor-furnished material sources, too, must undergo review under Section 106.**

As with most other laws relating to archaeological and historic resources, **Section 106 requires individuals who discover sites during construction to halt work in the immediate area of the discovery and notify the appropriate authorities.**

#### **B. Native American Graves Protection and Repatriation Act (NAGPRA)**

This law prohibits the disturbance of human remains and associated grave goods found on Federal and Indian lands. **NAGPRA requires that if a discovery occurs in connection with any activity, including construction, mining, logging, and agriculture, the person shall cease the activity in the area of the discovery, and notify the land manager with jurisdiction over the place in question.**

#### **C. Archaeological Resources Protection Act (ARPA)**

The law states, "The purpose of the Act is to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands . . ." **The law makes it illegal for any person to excavate, remove, damage or otherwise alter or deface or attempt to excavate, remove, damage or otherwise alter or deface any archaeological resource located on public lands unless such activity is pursuant to an ARPA permit granted by the Federal land manager with jurisdiction over the lands in question.** The law provides for criminal penalties of up to five years in prison and \$100,000 in fines for persons convicted of a second offense.

#### **D. Tribal Laws**

The Confederated Salish and Kootenai Tribes of the Flathead Nations  
The Tribal Cultural Preservation Office

The CS&K Tribal Cultural Preservation Office was established under the authority of the National Historic Preservation Act, Section 101(d)(2), "A tribe may assume all or any part of the functions of the State Historic Preservation Officer in accordance with subsections (b)(2) and (b)(3), with respect to tribal lands." Tribal lands have been interpreted to mean all lands within the exterior boundaries of the Flathead Reservation.

The Tribal Cultural Preservation Office operates under Salish and Kootenai Tribal Ordinance No. 95, the "Cultural Resource Protection Ordinance." All undertakings within the Flathead Reservation that have potential to impact cultural resources will be reviewed by the Tribal Cultural Preservation Officer. Within the Reservation all ethnographic studies, survey, excavation, or any work or undertaking which may affect cultural resources on protected lands will require a review and/or permit.

### Solid Waste

Solid waste is regulated by the Montana Department of Environmental Quality. The regulations are listed in Section 75-10-203(11)(a) and (b) Montana Codes Annotated (MCA) ARM 17.50.403(21) § Administrative Rules of Montana (ARM). Solid wastes are grouped based on physical and chemical characteristics. These characteristics determine how the wastes need to be handled and disposed. By definition, "solid waste" can be solid, semi-solid, liquid or gaseous.

Group I wastes include solid wastes that are classified by EPA as hazardous wastes in 40 CFR 250.1. See separate discussion below.

Group II wastes include decomposable wastes and mixed solid wastes containing decomposable material but excluding hazardous wastes. This group includes municipal and domestic wastes such as garbage and putrescible organic materials, paper, cardboard, cloth, glass, metal, plastics, street sweepings, yard and garden wastes, digested sewage treatment sludges, ashes, dead animals, offal, discarded appliances, abandoned automobiles, treated timbers, petroleum contaminated soils and asphaltic concrete.

If there is no beneficial use, these wastes must go to a licensed Class II municipal landfill. See separate discussions on petroleum contaminated soils, asphaltic concrete and treated timbers below.

Group III wastes include wood wastes and non-water soluble, essentially inert solids. This group includes brick, dirt, rocks, sand, gravel, Portland cement concrete (with rebar cut off), wood materials (non-treated), brush, lumber, and vehicular tires.

These wastes can be disposed of at a licensed Class III landfill or a licensed Class II landfill. Group IV waste includes construction and demolition wastes and asphalt, except regulated hazardous waste.

### Hazardous Waste

Hazardous wastes are also regulated by the Montana Department of Environmental Quality. The regulations are listed in Title 17, Chapter 50 of the Administrative Rules of Montana. A hazardous waste is a solid waste that contains an EPA "listed" substance that has been shown to be harmful to human health or the environment, or has certain "characteristics." The "listed" substances include pesticides such as DDT and 2,4,5-T and solvents such as 1,1,1-trichloroethane and methyl ethyl ketone. MDT's Environmental Services should be consulted to determine if a waste material contains a "listed" hazardous waste.

"Characteristic" hazardous wastes are wastes that exhibit any one of the following characteristics:

Ignitability: Any combustible or flammable waste with a flashpoint below 140°F. Examples include: fuels, solvents, petroleum products, etc.

Corrosivity: Any waste with a pH less than 2.0 or greater than 12.5. Examples include: battery acid, alkaline cleaning wastes.

Reactivity: Any waste that is unstable or undergoes violent chemical reactions when mixed with water or other materials. Examples include: hydrogen cyanide, sodium cyanide, hydrogen sulfide, industrial bleaches and oxidizers.

Toxicity: Any waste that contain constituents (heavy metals or organic compounds) that have been shown to be harmful to human health and the environment. There are 40 constituents that the EPA has established concentration limits for that are banned from landfill disposal. Examples include: Paint, sump sludge, grease, solvents, pesticides, heavy metal contaminated waste, creosol, 2,4-D, etc.



### **Petroleum Contaminated Soils**

Non-hazardous petroleum contaminated soils can either be disposed of at licensed Class II landfill or at a licensed landfarm facility. In some cases, petroleum contaminated soils encountered during roadway or utility excavations may be allowed to stay on-site. A determination will need to be made on a case-by-case basis by the Montana Department of Environmental Quality.

### **Asphaltic Concrete and Millings**

Waste asphaltic concrete and millings are considered a Group IV solid waste unless they have some beneficial use. Options for dealing with waste asphaltic concrete or millings include the following:

**Recycle**: Crush and recycle into new hot mix.

**Stockpile**: Store the asphaltic concrete or millings at an environmental sound location until it can be used on another road project. The stockpile should be located away from any stream or water. Stockpiling for future use should not be misused as a way of getting around disposal requirements. A reasonable period of time to stockpile waste material should not be longer than two to three years.

**Fill Material**: Utilize the waste asphalt material as subgrade or shoulder fill as long as it meets engineering design criteria, and is not placed so as to cause or potentially create environmental degradation of the surrounding soils or state waters. If the asphalt material is to be utilized as shoulder fill, it must not be placed in proximity to standing water, or seasonally high water tables, and must be compacted and covered with two feet of clean soils capable of providing run-off away from the road way and shoulder areas.

**Disposal at gravel pits**: Only clean fill such as soil, dirt, sand, gravel, rock, non-painted brick, rebar-free concrete, and asphaltic pavement generated on site by this operation will be disposed of on site. Other wastes will only be disposed of on site if an appropriate solid waste management system license is obtained from the Department of Environmental Quality. If asphaltic pavement is disposed of on site, a separation of at least 25 feet will be maintained between the waste and the seasonally high groundwater table, unless otherwise approved by the Department of Environmental Quality.

**Re-use as surfacing material**: Milled and/or crushed asphaltic concrete can be used as surfacing material for turnouts, gravel roads or parking areas. The material can be spread and rolled and, in some cases, covered with a surface application and chip sealed.

### **Treated Timbers**

Treated timber wastes are generated from old bridge decking and guard rail posts. Analytical testing has shown that this material is non-hazardous waste but they are still considered a Group VI waste and must be disposed of at a Class II or Class IV landfill. Prior approval from a landfill is generally required and they may require additional testing. In no case, should treated timbers be burned as a means of disposal.



## **ENVIRONMENTAL DEFINITIONS:**

### **"Waters of the United States" or "Waters of the U.S."**

- I. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- II. All interstate water, including interstate wetlands;
- III. All other water such as intra-state lakes, rivers, streams (including intermittent streams), mud flats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce, including any such waters:
  - a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - c. Which are used or could be used for industrial purposes by industries in interstate commerce.
- IV. All impoundments of waters otherwise defined as waters of the United States under this definition;
- V. Tributaries of waters identified in paragraphs I. through VI. of this definition;
- VI. The territorial sea; and
- VII. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs I. through VI. of this definition.

### **Wetland Definition**

The Environmental Protection Agency and Corps of Engineers for administering the Section 404 permit program defines wetlands as: "those areas that are inundated or saturated at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas."

## **State Waters**

As found in Section 75-5-103(25) MCA which states:

(25)(a) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

(b) The term does not apply to:

- (I) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or
- (ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

## **Discharge**

The injection, deposit, dumping, spilling, leaking, placing, or failing to remove any pollutant that may enter State or Federal waters. This includes groundwater.

## **Pollution**

A harmful chemical or waste material discharged into the water or atmosphere. To make foul or corrupt, make unclear, impure, contaminate or dirty.

## **Sediment as a Pollutant**

Sediment becomes a pollutant when it enters Federal or State waters due to man's activities.

## **Storm Water**

Means storm water runoff, snow melt, surface and drainage runoff.

## **Ordinary High Water Mark**

The Environmental Protection Agency and the Corps of Engineers define ordinary high water mark as the line on the shore established by the fluctuations of water and indicated by physical characteristics, such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Erosion is the process in which soil particles are displaced and transported by wind or water. **Erosion Control** is the non-structural prevention of soil dislocation and migration. Erosion Control is the most cost-efficient of the storm water runoff management techniques. The most efficient Erosion Control practice is to leave as much native vegetation undisturbed as practically possible. Undisturbed soils with vegetation are least likely to have erosion problems. Also, natural vegetation can reduce the sediment loads of runoff from adjacent disturbed areas. Other practices include temporary and permanent re-vegetation, slope roughening, mulching, use of soil binders, and erosion control mats. By far, the best practice is to leave native vegetation in-place, when possible, by disturbing no more area than necessary.

Sedimentation is the deposition of eroded material suspended in wind or water. **Sediment Control** is the structural prevention of continued soil migration after disturbance. Sediment Control practices include sediment traps/basins, barriers, filters, and pavement. The objective of Sediment Controls is to prevent sediment from leaving the construction site. Sediment Controls are less efficient than Erosion Controls. It is easier to prevent erosion than to stop sediment.

The Erosion Control Plan addresses both temporary Erosion and Sediment Control. It is the basic framework of a strategy to prevent or minimize erosion and sediment movement during construction activities. The following erosion control measures shall be conducted as a general approach or method to all construction activities in order to prevent or minimize erosion. Prior to construction, a detailed Erosion Control Plan complete with maps and drawings shall be submitted for approval to the Montana Department of Environmental Quality (DEQ) Water Quality Division by Montana Department of Transportation (MDT) Environmental Services. No land clearing or construction activities shall occur until the erosion control plan has been approved. Best Management Practices (BMPs) must be implemented and maintained as specified in the MDT Highway Erosion Control Detail Drawings and comply with all provisions of the storm water discharge permit. These BMPs are not comprehensive and do not supersede MDT Standard Specifications or mandates and requirements specified by other authorized State and Federal agencies.

Reductions or removal of BMPs from the Erosion Control Plans must be requested in writing to the Construction Bureau and approved by the DEQ Water Protection Bureau. Increases or addition of BMPs to the Erosion Control Plan to further protect water quality may be implemented as directed by the Engineer. The contractor shall comply with the requirements of the storm water permit. The contractor shall implement the erosion control plan and its general requirements.

Construction sequencing shall be conducted in such a manner to minimize erosion and sedimentation. Clearing and grubbing shall be minimized to the smallest practical area. Whenever possible, vegetative buffers strips shall be maintained between the toe of the fill slope and any water resource to the maximum extent possible. Grading should begin within 72 hours of removing topsoil or pioneering. Culvert installations should begin within 72 hours of clearing, grubbing or grading are to be completed as quickly as practical. If installation delays occur, additional erosion control measures will be required. Special concern shall be given to slopes within close proximity to channel changes, embankment protection and culvert installations to assure that sediment is not released in the drainage.

Whenever possible stockpiled materials (topsoil, gravel, etc.) shall be placed a minimum of 30.5 meters (100 feet) from surface waters. Stockpiled materials placed less than 30.5 meters (100 feet) from surface waters shall be protected with BMPs selected by the contractor to prevent release of sediment to the surface water. Hazardous materials (fuel, paint, solvents, glues, asphalt materials, fertilizers, pesticides, etc.) shall be placed a minimum of 30.5 meters (100 feet) from surface waters. Whenever possible, these materials shall be stored in covered shelters where they do not come in contact with storm water. Whenever possible asphalt plant operations shall be located a minimum of 30.5 meters (100 feet) from surface waters. Asphalt plant operations located within 30.5 meters (100 feet) from surface water shall be adequately protected with BMPs selected by the contractor.

Temporary erosion controls BMPs shall be installed prior to disturbing soils when constructing fill slopes and as soil disturbing activities are conducted in the case of cut slope protection, ditch bottom protection, and inlet/outlet protection. Permanent erosion controls specified in the bid documents such as riprap for embankment protection or pipe inlet/outlet protection, or slope drains shall be installed prior to or in conjunction with the associated earth-disturbing activities. This serves as both a temporary and permanent erosion control measure.

Best Management Practices (BMPs) shall be inspected at least once every seven days and within 24 hours of a storm event that results in runoff. BMPs shall be maintained and repaired, as necessary, to remain in compliance with their intended function and capacity as specified in the Erosion Control Plan and all provisions of the storm water discharge permit.

The following is a synopsis of the BMPs in the MDT Erosion Control Detail Drawings:

Slope Roughening (SR) All slopes steeper than 3:1 and greater than 5 vertical feet (1.5 meters) require slope rounding. SR is a very rough soil surface on slopes resulting from construction activities or the systematic roughening using heavy equipment to create ridges perpendicular to the slope. The soil surface shall have horizontal depressions equal to or greater than 2 inches or 50 mm horizontally; the horizontal depressions shall be no further apart than twice the height. Slope roughening is the best first line of defense to control erosion and sediment runoff.

Slope roughening excludes rock slopes that cannot be excavated by ripping. Appropriate supplementary BMPs include temporary seeding or erosion seeding. When fill slopes are within 50 feet of surface water, sediment retention BMPs are required; either sediment control fences or runoff interception ditches.

Stepped Slope (SS) is a very rough soil surface on slopes with horizontal depressions/stair stepping cuts or terraces created by appropriate machinery. The use of this BMP is to be determined by the engineer.

When possible, horizontally step all cut slopes 2:1 and steeper, excluding rock slopes that cannot be excavated by ripping. Step slopes at the discretion of the engineer and in accordance with MDT Standard Specifications 208 and 203.03.1F.

Temporary Seeding (TS) is the establishment of a temporary vegetative cover by seeding with cereal barley. Use temporary seeding on areas 3:1 or flatter that will be exposed for longer than 14 days and that will undergo further disturbance, excluding rock slopes that cannot be excavated by ripping. Use temporary seeding with slope roughening.

Seeding dates and application rates are as follows:

April 1- June 30:	Cereal Barley 12 lbs/acre	
July 1 - Any 31	temporary seeding not recommended	
Sept 1 - Nov 15:	Cereal Barley 12 lbs/acre	(Do not temporary seed if the area is to be permanently seeded this fall.)

Contact the MDT Agronomist prior to using substitutions or placing temporary seeding outside these dates. Drill seed slopes of 3:1 or flatter. For slopes steeper than 3:1 refer to erosion seeding.

Erosion Seeding (ES) is the immediate seeding of freshly exposed slopes. Use erosion seeding on cut and fill slopes with a slope of steeper than 3:1 that will not undergo further disturbance, excluding rock slopes that cannot be excavated by ripping. This seeding will not replace or substitute for final seeding activities specified in the seeding special provision.

Seed completed sections daily, regardless of the time of year. Accomplish seeding by manual broadcasting with a shoulder-harnessed spreader seeder or its equivalent with no mulch or fertilizer applied. Store the recommended seed mix on-site prior to initiation of slope excavation. If one or



more species are unavailable, contact the MDT Agronomist for the substitute. The seed mix and rate of application are as follows:

DISTRICT	SPECIES	LB/ACRE PLS
1  (MISSOULA)	Canada wildrye	3
	Secar bluebunch wheatgrass	5
	Critana thickspike wheatgrass	5
	Covar sheep fescue	2
	Cereal barley	5
2, 3, 5  (BUTTE, GREAT FALLS, BILLINGS)	Canada wildrye	3
	Secar bluebunch wheatgrass	5
	Sodar streambanks wheatgrass	5
	Covar sheep fescue	2
	Cereal barley	5
4  (GLENDDIVE)	Canada wildrye	3
	Secar bluebunch wheatgrass	5
	Romana western wheatgrass	5
	Lodorm green needlegrass	3
	Cereal barley	5

Run-on Diversion/Control (RD) is a berm of compacted soil and/or a ditch on top of cut slopes to intercept storm water runoff from the drainage area above the unprotected slopes and direct it to a stabilized outlet. It is used on the top of cut slopes 2:1 and steeper, excluding rock slopes that cannot be excavated by ripping, or the top of fill slopes where there is potential for road bed runoff. This BMP can be used on flatter slopes at the discretion of the engineer.

Construct run-on diversion/control structures in conjunction with pioneering and prior to grading operations. If it is to remain in place for longer than 15 days, it requires erosion seed, gravel or riprap.

Install slope drains where needed to prevent concentration of water and over-topping of berm. Place velocity dissipaters at the terminus of ditches and where needed. Appropriate supplementary BMPs include temporary seeding, erosion seeding, slope drains or ditch sediment traps.

Slope Drains (SD) consist of a flexible pipe, rigid pipe, geotextile-lined channel or riprap-lined channel. Slope drains are used with run-on diversion/controls or along the toe of fill in cut to fill transitions. Slope drains extend from the collection point to the bottom of the slope and discharge into a drainage channel or a stabilized area (not state waters).

Slope drains convey concentrated runoff down unprotected cut or fill slopes or cut/fill transitions without causing gullies, channels, or saturation of slide-prone soils of a cut or fill slope. Design riprap-lined ditches on a site-specific basis. Riprap size is a function of expected water velocity. Appropriate supplementary BMPs include velocity reduction and sediment retention BMPs.

Erosion Mat (EM) is a vegetative mulch material, jute mat or synthetic geomembrane that must be anchored. Erosion mats are used to protect exposed soils, enhance plant establishment or line ditch bottoms.

Lap erosion mats and anchor according to the manufacturer's specifications, conforming with MDT

Standard Specification 610.03.4. Blanket lengths are limited to 25 feet to prevent bridging of the blanket above settling soils. Extend the top edge of the blanket at least 3 feet beyond the top of the slope. Erosion mats are required when the most erodible conditions exist in the soil, slope, surface water and precipitation categories.

Ditch Sediment Traps (DT\*) is terminology used to describe the selection of one of four temporary sediment barriers used at intervals along a concentrated runoff flow path. The designer determines the locations requiring ditch sediment traps and the proper intervals and the engineer determines which temporary sediment barrier will be used. Refer to dugout ditch basins, gravel filter berms, sediment control fence and erosion mat for installations.

Ditch sediment traps are used for longitudinal roadside ditches in a cut section or as longitudinal sediment retention basins at the toe of fills. Ditch sediment traps reduce runoff velocity and promote sediment settling. The distance between ditch sediment traps is dependent on the length of ditch section relating to the grade that needs sediment retention. The interval is as follows:

DT1 = 2% to 3%

Dugout ditch basins at 300 feet or  
Gravel filter berms at 300 feet or  
Sediment control fences at 500 feet or  
Erosion mat

DT2 = 3% to 4%

Dugout ditch basins at 150 feet or  
Gravel filter berms at 200 feet or  
Sediment control fences at 300 feet or  
Erosion mat

DT3 = 4% +

Dugout ditch basins at 50 feet or  
Gravel filter berms at 100 feet or  
Sediment control fences at 150 feet or  
Erosion mat

These values are empirical; they are the maximum interval distances for a 2-year, 24-hour rain event. Intervals may be shortened at the discretion of the engineer if soil conditions and/or precipitation indicate a need to do so.

Dugout Ditch Basins (DDB) consist of one or a series of small dugout basins used for concentrated flows to reduce runoff velocity, promote sediment retention and allow settling. The maximum height for dugout ditch basins used inside the errant vehicle recovery area is 6 inches.

Dugout ditch basins are used for longitudinal slope steepness (grade) sediment retention. Applications include ditch sediment traps, interceptor ditches and toe of slope protection. Distance between dugout ditch basins is shown in the ditch sediment trap section for ditch sediment retention, use on slopes is dependent on soil types.

Gravel Filter Berms (GFB) consist of single or series of gravel berms to reduce runoff velocities and retain sediment. The maximum height for gravel filter berms used inside the errant vehicle recovery area is 6 inches.

Berm material must be 100% passing 2" screen and 10% maximum passing No. 4 sieve. Berm material may be pitrun or crushed aggregate.

Gravel filter berms are used for sheet or concentrated flows to reduce runoff velocity, promote sediment retention and allow settling. Applications include ditch sediment traps inlet/outlet protection and toe of slope protection. As a ditch sediment trap, the end of the barrier extends to such an extent

that end cutting is prevented. Position the barrier to prevent sediment from entering drainage. Do not place the barrier across live streams. Distance between gravel filter berms is shown in the ditch sediment trap section for ditch sediment retention. Remove sediment from behind the berm when it accumulates to one-half ( $\frac{1}{2}$ ) the original height unless its drainage area has been stabilized.

Sediment Control Fence (SCF) is a single or series of filter fabric sediment barrier(s) stretched and attached to supporting posts. The fence bottom is entrenched.

Sediment control fences are used for sheet or concentrated flows to assist in sediment control by retaining some of the eroded soil particles and slowing the runoff velocity to allow particle settling. Applications include ditch sediment traps, water resource protection, inlet/outlet protection, bank protection, toe of slope protection and channel changes. Install sediment control fences prior to disturbing areas requiring this BMP or as slope grades are achieved. Maximum cut or fill slope for a sediment control fence is 2:1. Use 2 inch by 2 inch (nominal) wooden stakes.

Sediment control fences are used between the edge of construction disturbance and a water resource or critical resource or right-of-way line that is adjacent to construction activity. In ditches and swales, the ends of the fence curve upstream to prevent flow from bypassing the fence. Position the barrier to prevent sediment from entering the drainage. Do not place the barrier across live streams. Woven wire backing is necessary for all critical resource areas, i.e., wetlands, heavy flow areas, and around water recovery areas wire backed sediment control fence shall use steel posts of at least  $4\frac{1}{2}$  feet in length and a minimum of 1.25 lbs. Per foot, and meet ASTM Standard A702 Specifications. Steel posts are to be placed no greater than 8 feet apart.. The distance between sediment control fences is shown in the ditch sediment trap section for ditch sediment retention. Remove sediment from behind the berm when it accumulates to one-third ( $\frac{1}{3}$ ) the original height. Prior to removal of fence, sediment deposits will be either graded and seeded or removed.

Straw Bale Barrier (SBB) is a sediment barrier consisting of entrenched, overlapping, and anchored straw bales to reduce runoff velocities and retain sediment. Do not use straw bale barriers inside the errant vehicle recovery area. Straw bales must be certified weed-free.

Straw bale barriers are used for sheet or concentrated flows to reduce runoff velocity, promote sediment retention and allow settling. Entrench the barrier approximately one-third ( $\frac{1}{3}$ ) of the bale's height and backfill on the uphill side. Use 2 inch by 2 inch (nominal) by 3 foot long wooden stakes. Do not use metal stakes. Use a minimum of two (2) stakes per bale.

As a ditch sediment trap, extend the end of the barrier to such an extent that the bottoms of the end bales are higher than the tops of the lowest center bales. Position the barrier to prevent sediment from entering the drainage. Do not place the barrier across live streams. Repair or replace damaged, undercut, or end run bales. Applications include (outside the errant vehicle recovery area) ditch sediment traps, inlet/outlet protection, bank protection and toe of slope protection.

Vegetative Buffer Strip (VBS) is an undisturbed area or strip of established natural vegetation. A vegetative buffer strip provides a living sediment filter to reduce runoff velocities and allow capture and settling of coarse-grained sediment. Vegetative buffer strips reduce or prevent sedimentation from leaving the right-of-way.

Identify vegetative buffer strips with flagging before construction occurs. Keep equipment and fill material off of vegetative buffer strips. Always consider vegetative buffer strips when water resources are adjacent to or near disturbances and require protection. The minimum width requirement for a well established vegetative strip with a slope of 3:1 or flatter is 50 feet. The minimum width requirement for a well established vegetative strip with a slope steeper than 3:1 is 100 feet. Appropriate supplementary BMPs include gravel berms, sediment control fences and other sediment retention BMPs.

Runoff Interception Ditches (RID) intercept and convey sheet flow runoff to sediment retention BMPs. Intercepted flows prevent off-site discharge of storm water and sedimentation.



Use runoff interception ditches at the toe of slopes or between disturbed areas and right-of-way lines to prevent flows from carrying sediment off-site. Appropriate supplementary BMPs include slope drains or ditch sediment traps.

Inlet/Outlet Protection (I/O) are structures associated with sediment removal at inlets and sediment removal at pipe outlets. The purpose of this BMP is to allow storm waters of intermittent drainages to flow through disturbed areas with minimal impact during storm events and to keep sediment from leaving MDT property.

Inlet/outlet protection is used at culvert installations that discharge directly into a water resource or cultural and historical resource adjacent to the right-of-way line. Do not use inlet/outlet protection on stock underpasses or approach culverts.

Waterway Protection (WP) is an erosion control for construction activities crossing water resources. Waterway protection applies to perennial stream crossings, wetlands, channel changes, stream bank disturbances, irrigation systems or other impacts to water resources from bridge construction or culvert installation.

Appropriate BMPs include erosion mat, gravel filter berm, sediment control fence, straw bale barrier or vegetative buffer strip. Additional BMPs include slope roughening, run-on diversion/control, ditch sediment trap, dugout ditch basins and runoff interception ditch. This list of BMPs is not comprehensive and does not supersede MDT standard specifications or mandates and requirements specified by other authorized state and federal agencies.

Water Resource Protection (WR) is erosion control for construction activities adjacent to water resources. Waterway protection applies to perennial streams, wetlands, channel changes, stream bank disturbances, irrigation systems or other impacts to water resources from road construction. It can be used for critical resources. The designer denotes "critical resource" on the plans and puts water resource protection with it.


















Appropriate BMPs include erosion mat, gravel filter berm, sediment control fence, straw bale barrier or vegetative buffer strip. Additional BMPs include slope roughening, run-on diversion/control, ditch sediment trap, dugout ditch basins and runoff interception ditch. This list of BMPs is not comprehensive and does not supersede MDT standard specifications or mandates and requirements specified by other authorized state and federal agencies.


## EROSION CONTROL DETAIL DRAWINGS

The following Erosion Control Detail Drawings have been reviewed by the Montana Department of Transportation, Montana Department of Environmental Quality. These BMP's are not comprehensive as other innovative methods may perform the required function.



# EROSION CONTROL SYMBOLS

BEST MANAGEMENT PRACTICE (BMP)	NAME	SYMBOL	DTL. DWG. NO.	Page No.
SLOPE ROUGHENING	P-01		208-05	249
STEPPED SLOPE	P-02		208-07	250
TEMPORARY SEEDING	P-03		208-10	251
EROSION SEEDING	P-04		208-15	252
RUN-ON DIVERSION/CONTROL	P-05		208-20	253
SLOPE DRAINS	P-06		208-25	254
EROSION MAT	P-07		208-30	255
DITCH SEDIMENT TRAPS	R-01		208-35	256
DUGOUT DITCH BASIN	R-02		208-40	257
GRAVEL FILTER BERM	R-03		208-45	258
SEDIMENT CONTROL FENCE	R-04		208-50	259
STRAW BALE BARRIER	R-05		208-55	260
VEGETATIVE BUFFER STRIP	R-06		208-60	261
RUNOFF INTERCEPTION DITCH	R-07		208-65	262
PIPE INLET/OUT PROTECTION	R-08		208-70	263
WATERWAY PROTECTION	W-01		208-75	264
WATER RESOURCE PROTECTION	W-02		208-80	265

DETAILED DRAWING	
REFERENCE	DWG. NO.
STANDARD SPEC.	208-00
SECTION 208	
EROSION CONTROL SYMBOLS	
EFFECTIVE: AUGUST 1996	
 MONTANA DEPARTMENT OF TRANSPORTATION	
MONTANA CADD	



SYMBOL: → (SR) →

# SLOPE ROUGHENING BMP P-01:

SLOPE ROUGHENING (SR) IS A VERY ROUGH SOIL SURFACE ON SLOPES RESULTING FROM CONSTRUCTION ACTIVITIES. THE SURFACE IS CHARACTERIZED BY RIDGES AND FURROWS OR RIPPED SURFACES ORIENTED PERPENDICULAR TO THE SLOPE. THE RIDGES OR FURROWS ARE TO BE EQUAL TO OR GREATER THAN TWO (2) INCHES IN HEIGHT AND NO FURTHER THAN TWICE THE HEIGHT OF THE RIDGE OR FURROW APART. SLOPE ROUGHENING IS THE BEST FIRST LINE OF DEFENSE TO CONTROL EROSION AND SEDIMENT RUNOFF. DEGREE OF SLOPE ROUGHENING IS DEPENDENT ON GRADES AND PROXIMITY TO WATER RESOURCES.

ALL SLOPES STEEPER THAN 3:1 AND GREATER THAN FIVE (5) VERTICAL FEET REQUIRE SLOPE ROUGHENING, EXCLUDING ROCK SLOPES THAT CANNOT BE EXCAVATED BY RIPPING. DISTURBED SLOPES OR LEAVE IN A ROUGHENED CONDITION. APPROPRIATE SUPPLEMENTARY BMPs INCLUDE TEMPORARY SEEDING OR EROSION SEEDING. WHEN FILL SLOPES ARE WITHIN 30 FEET OF SURFACE WATER, SEDIMENT RETENTION BMPs ARE REQUIRED, EITHER SEDIMENT CONTROL FENCES OR RUNOFF INTERCEPTION DITCHES.



ROUGHEN SLOPES  
WITH HEAVY EQUIPMENT  
OR LEAVE IN ROUGHENED  
CONDITION

DETAILED DRAWING  
REFERENCE  
STANDARD SPEC.  
SECTION 208

DWG. NO.  
208-05

SLOPE ROUGHENING  
(P-01)

EFFECTIVE AUGUST 1996

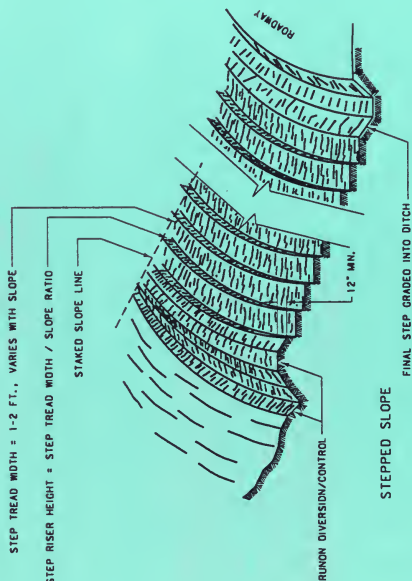
MONTANA DEPARTMENT  
OF TRANSPORTATION  
CADD



# STEPPED SLOPE BMP P-021

STEPPED SLOPE 1SS1 IS A VERY ROUGH SOIL SURFACE ON SLOPES WITH HORIZONTAL DEPRESSIONS/STAIR STEPPING CUTS OR TERRACES CREATED BY APPROPRIATE MACHINERY. THE USE OF THIS BMP IS TO BE DETERMINED BY THE ENGINEER.

WHEN POSSIBLE, HORIZONTALLY STEP ALL CUT SLOPES 2:1 AND STEEPER, EXCLUDING ROCK SLOPES THAT CANNOT BE EXCAVATED BY RIPPING. STEP SLOPES AT THE DISCRETION OF THE ENGINEER AND IN ACCORDANCE WITH MOT STANDARD SPECIFICATIONS 208 AND 203.03.1F.



STEPPED SLOPE

FINAL STEP GRADED INTO DITCH

DETAILED DRAWING  
REFERENCE  
STANDARD SPEC.  
SECTION 208

STEPPED SLOPE  
(P-021)

EFFECTIVE AUGUST 1986





SYMBOL: 

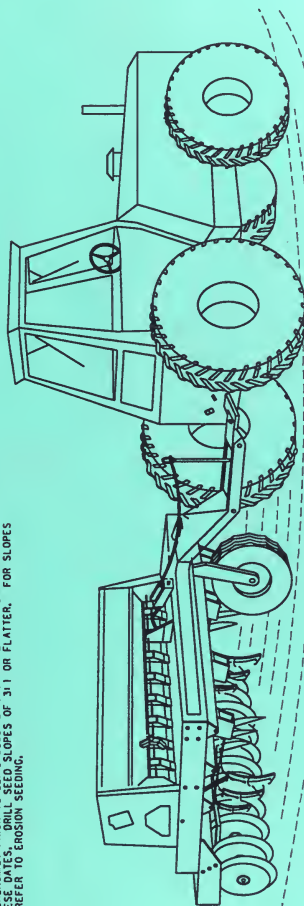
TEMPORARY SEEDING BMP P-031

TEMPORARY SEEDING (T5) IS THE ESTABLISHMENT OF A TEMPORARY VEGETATIVE COVER BY SEEDING WITH CEREAL BARLEY. USE TEMPORARY SEEDING ON AREAS 3:1 OR FLATTER THAT WILL BE EXPOSED FOR LONGER THAN 14 DAYS AND THAT WILL UNDERGO FURTHER DISTURBANCE, EXCLUDING ROCK SLOPES THAT CANNOT BE EXCAVATED BY RIPPING. USE TEMPORARY SEEDING WITH SLOPE REPAIRING.

SEEDING DATES AND APPLICATION RATES ARE AS FOLLOWS:

1 - JULY 1 - AUGUST 31: TEMPORARY SEEDING NOT RECOMMENDED  
2 - SEPTEMBER 1 - NOVEMBER 15: CEREAL BARLEY 12 LBS/ACRE (DO NOT TEMPORARY SEED IN THIS TIMEFRAME IF THE AREA IS TO BE PERMANENTLY SEEDS THAT FALL)

CONTACT THE MONT AGRONOMIST PRIOR TO USING SUBSTITUTIONS OR PLACING TEMPORARY SEEDING OUTSIDE THESE DATES. GRILL SEED SLOPES OF 3:1 OR FLATTER. FOR SLOPES STEEPER THAN 3:1 REFER TO EROSION SEEDING.



SLOPES 3:1 OR FLATTER

DETAILED DRAWING  
REFERENCE  
STANDARD SPEC.  
SECTION 208  
208-10

TEMPORARY SEEDING  
(P-03)

EFFECTIVE AUGUST 1996



4400

SYMBOL: 

EROSION SEEDING BMP P-041

EROSION SEEDING (ES) IS THE IMMEDIATE SEEDING OF FRESHLY EXPOSED SLOPES. USE EROSION SEEDING ON SLOPES AND SLOPE AREAS WITH SOFT SOILS THAT ARE UNABLE TO HOLD SEEDS IN PLACE. EROSION SEEDING IS NOT TO BE USED ON SLOPES THAT CANNOT BE EXCAVATED BY RIPPING. THIS SEEDING WILL NOT REPLACE OR SUBSTITUTE FOR FINAL SEEDING ACTIVITIES SPECIFIED IN THE SEEDING SPECIAL PROVISION.

SEED COMPLETED SECTIONS DAILY, REGARDLESS OF THE TIME OF YEAR. ACCOMPLISH SEEDING BY MANUAL BROADCASTING WITH A SPREADER OR SEEDER. STORE THE RECOMMENDED SEED MAX ON-SITE PRIOR TO INITIATION OF SLOPE EXCAVATION. IF ONE OR MORE SPECIES IS UNAVAILABLE, CONTACT THE MOT AGRICULTURAL SUPPLY FOR THE SUBSTITUTE. THE SEED MIX AND RATE OF APPLICATION ARE AS FOLLOWS:

DISTRICT	SPECIES	LB/ACRE PLS
1 (MISSOULA)	Canada wildrye	3
	Secar bluebunch wheatgrass	5
	Critina thickspike wheatgrass	5
	Covar sheep fescue	2
	Cereal barley	5
2, 3, 5 (BUTTE, GREAT FALLS, BILLINGS)	Canada wildrye	3
	Secar bluebunch wheatgrass	5
	Sodar streambanks wheatgrass	5
	Covar sheep fescue	2
	Cereal barley	5
4 (GLENDALE)	Canada wildrye	3
	Secar bluebunch wheatgrass	5
	Romana western wheatgrass	5
	Lodorm green needlegrass	3
	Cereal barley	5



SLOPES STEEPER THAN 3:1

DETAILED DRAWING  
REFERENCE DWG. NO.  
STANDARD SPEC. 208-15  
SECTION 208

EROSION SEEDING  
(P-04)

EFFECTIVE AUGUST 1996

ONTARIO DEPARTMENT OF TRANSPORTATION  
CADO

SYMBOL:



RUN-ON DIVERSION/CONTROL BMP P-051

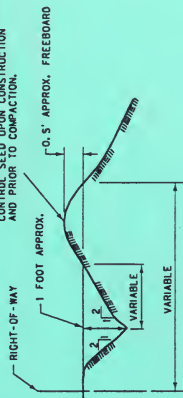
INSTALL A BERM OF COMPACTED SOIL AND/OR A DITCH ON TOP OF CUT SLOPES TO INTERCEPT STORM WATER RUNOFF FROM THE DRAINAGE AREA. THE BERM OR DITCH SHOULD BE LOCATED AT THE TOE OF CUT SLOPES. IT SHOULD BE USED ON THE TOP OF CUT SLOPES 2:1 AND STEEPER, EXCLUDING ROCK SLOPES THAT CANNOT BE EXCAVATED BY RIPRAP, OR THE TOP OF FILL SLOPES WHERE THERE IS POTENTIAL FOR SOIL BEING PLACED ON FLATTER SLOPES AT THE DISCRETION OF THE ENGINEER.

CONSTRUCT RUN-ON DIVERSION/CONTROL STRUCTURES IN CONJUNCTION WITH PIONEERING VEGETATION. THE STRUCTURES SHOULD BE PLACED IN PLACE FOR LONGER THAN 15 DAYS IT REQUIRES EROSION SEED, GRAVEL OR RIPRAP.

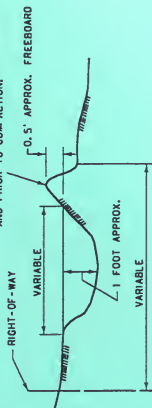
INSTALL SLOPE DRAINS WHERE NEEDED TO PREVENT CONCENTRATION OF WATER AND OVER-TOPPING OF BERM. PLACE VELOCITY DISSIPATORS AT THE TERMINUS OF DITCHES AND WHERE NEEDED. APPROPRIATE SUPPLEMENTARY BMPs INCLUDE TEMPORARY SEEDING, EROSION SEEDING, SLOPE DRAINS OR DITCH SEDIMENT TRAPS.



DENSITY TO THE SATURATION OF THE ENGINEER. EXCAVATION FROM CONTOUR DITCH MAY BE PLACED ON DOWNSLOPE SIDE AND SHAPED TO FORM A DIKE TO CONTROL SEED UPON CONSTRUCTION AND PRIOR TO COMPACTION.



EXCAVATION FROM CONTOUR DITCH MAY BE PLACED ON DOWNSLOPE SIDE AND SHAPED TO FORM A DIKE TO INCREASE THE DITCH CAPACITY. EROSION CONTROL SEED UPON CONSTRUCTION AND PRIOR TO COMPACTION.



DETAILED DRAWING

REFERENCE DWG. NO. 208-20  
SECTION 208

RUN-ON DIVERSION/CONTROL  
(P-051)

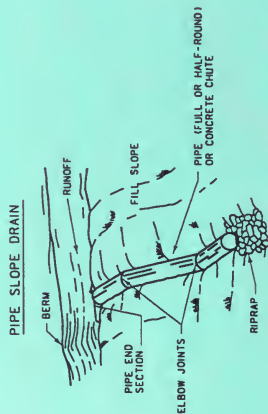
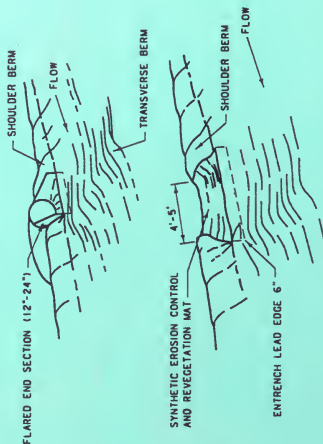
EFFECTIVE AUGUST 1986

MDI  
MINNESOTA DEPARTMENT OF TRANSPORTATION  
DESIGN DIVISION

SYMBOL:



# SLOPE DRAIN INLETS



## RIPRAP SLOPE DRAIN



SLOPE DRAINS BMP P-06:

SLOPE DRAINS (SD) CONSIST OF A FLEXIBLE PIPE, RIGID PIPE, GEOTEXTILE-LINED CHANNEL OR RIPRAP-LINED CHANNEL. SLOPE DRAINS ARE USED WITH RUN-ON DIVERSION/CONTROLS OR ALONG THE TOE OF FILL IN CUT TO FILL TRANSITIONS, DIVERSION/CONTROLS, OR ALONG THE TOE OF FILL IN CUT TO FILL TRANSITIONS, TO PREVENT EROSION AND DISCHARGE INTO A DRAINAGE CHANNEL OR A STABILIZED AREA (NOT STATE WATERS).

SLOPE DRAINS CONVEY CONCENTRATED RUNOFF DOWN UNPROTECTED CUT OR FILL SLOPES OR CUT/FILL TRANSITIONS WITHOUT CAUSING GULLIES, CHANNELS, OR SATURATION OF SLIDE-PRONE SOILS OF A CUT OR FILL SLOPE. DESIGN RIPRAP SLOPE DRAINS TO PREVENT EROSION AND DISCHARGE INTO A DRAINAGE CHANNEL OR A STABILIZED AREA (NOT STATE WATERS). APPROPRIATE SUPPLEMENTARY BMPs INCLUDE VELOCITY REDUCTION AND SEDIMENT RETENTION BMPs.

## DITCH LINER: SYNTHETIC EROSION CONTROL AND REVEGETATION MAT



DETAILED DRAWING	
REFERENCE	DWG. NO.
STANDARD SPEC.	208-25
SECTION 208	
SLOPE DRAINS	
(P-06)	
EFFECTIVE AUGUST 1996	
ARIZONA DEPARTMENT OF TRANSPORTATION	ARIZONA
	CADD





SYMBOL: 

DITCH SEDIMENT TRAPS BMP R-011

DITCH SEDIMENT TRAPS (DTs) IS TERMINOLOGY USED TO DESCRIBE THE SELECTION OF ONE OF FOUR TEMPORARY SEDIMENT BARRIERS USED AT INTERVALS ALONG A CONCENTRATED RUNOFF FLOW PATH. THE DESIGNER DETERMINES THE CONCENTRATION OF SEDIMENT AND THE SEDIMENT BARRIER WILL BE USED. REFER TO DUGOUT DITCH BASINS, GRAVEL FILTER BERMS, SEDIMENT CONTROL FENCE AND EROSION MAT FOR INSTALLATIONS.

DITCH SEDIMENT TRAPS ARE USED FOR LONGITUDINAL ROADSIDE DITCHES IN A CUT SECTION OR AS LONGITUDINAL SEDIMENT RETENTION BASINS AT THE TOE OF FILLS. DITCH SEDIMENT TRAPS REDUCE RUNOFF VELOCITY AND PROMOTE SEDIMENT SETTLING. THE SETTLING OF SEDIMENT BETWEEN THE TRAPS PROVIDES THE SEDIMENTATION OF THE CUT SECTION RELATING TO THE GRADE THAT NEEDS SEDIMENT RETENTION. THE INTERVAL IS AS FOLLOWS:

DT1 = 2X TO 3X

DUGOUT DITCH BASINS AT 300 FEET OR  
GRAVEL FILTER BERMS AT 300 FEET OR  
SEDIMENT CONTROL FENCES AT 500 FEET OR  
EROSION MAT

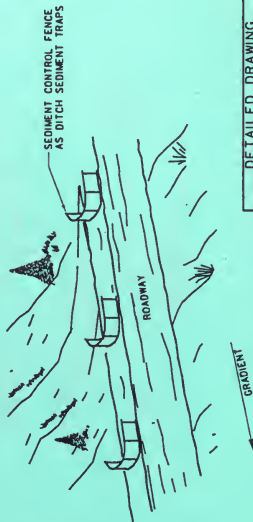
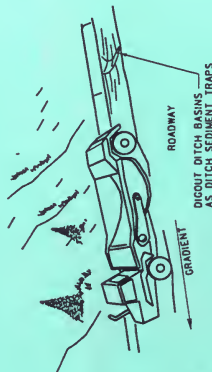
DT2 = 3X TO 4X

DUGOUT DITCH BASINS AT 150 FEET OR  
GRAVEL FILTER BERMS AT 200 FEET OR  
SEDIMENT CONTROL FENCES AT 300 FEET OR  
EROSION MAT

DT3 = 4X +

DUGOUT DITCH BASINS AT 50 FEET OR  
GRAVEL FILTER BERMS AT 100 FEET OR  
SEDIMENT CONTROL FENCES AT 150 FEET OR  
EROSION MAT

THESE VALUES ARE EMPIRICAL. THEY ARE THE MAXIMUM INTERVAL DISTANCES FOR A 2 YEAR, 24 HOUR RAIN EVENT. INTERVALS MAY BE SHORTENED AT THE DISCRETION OF THE ENGINEER IF SOIL CONDITIONS AND/OR PRECIPITATION INDICATE A NEED TO DO SO.



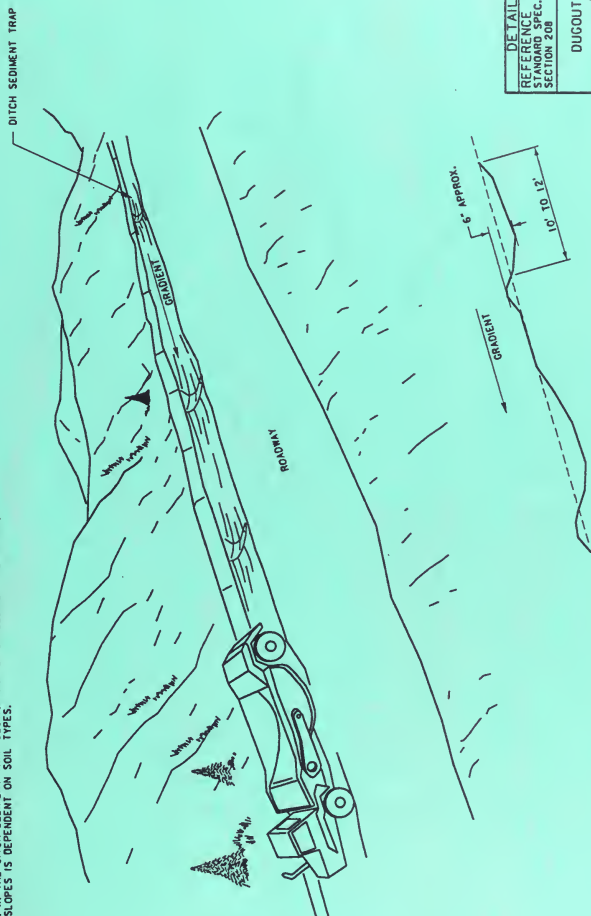
DETAILED DRAWING	DWG. NO.
REFERENCE	208-35
STANDARD SPEC.	SECTION 208
DITCH SEDIMENT TRAPS	(R-01)
EFFECTIVE AUGUST 1996	
MTA	MONTANA DEPARTMENT OF TRANSPORTATION
CLAD	

SYMBOL: 

DUGOUT DITCH BASINS BMP R-02:

DUGOUT DITCH BASINS (008) CONSIST OF ONE OR A SERIES OF SMALL DUGOUT BASINS USED FOR CONCENTRATED FLOWS TO REDUCE RUNOFF VELOCITY, PROMOTE SEDIMENT RETENTION AND ALLOW FOR PERMANENT STORAGE OF SEDIMENT. DUGOUT DITCH BASINS USED INSIDE THE EMBANKMENT RECOVERY AREA IS 6 INCHES.

DUGOUT DITCH BASINS ARE USED FOR LONGITUDINAL SLOPE STEPPERS (GRADE) TO PROMOTE SEDIMENT RETENTION. THE DISTANCE BETWEEN DUGOUT DITCH BASINS IS SHOWN IN THE DITCH SEDIMENT TRAP SECTION FOR DITCH SEDIMENT RETENTION, USE ON SLOPES IS DEPENDENT ON SOIL TYPES.



DETAILED DRAWING  
DWG. NO.  
208-40  
STANDARD SPEC.  
SECTION 208

DUGOUT DITCH BASIN  
(R-02)

EFFECTIVE AUGUST 1996

 MICHIGAN DEPARTMENT  
OF TRANSPORTATION

WENTZ  
CADD



SYMBOL: ———

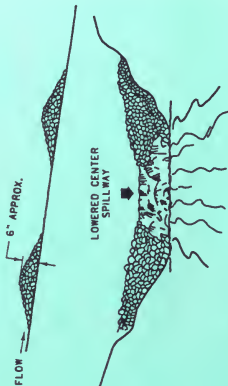
GF-B

GRAVEL FILTER BERM BMP R-03:

GRAVEL FILTER BERMS (IGFB) CONSIST OF A SINGLE OR SERIES OF GRAVEL BERMS TO REDUCE RUNOFF VELOCITIES AND RETAIN SEDIMENT. THE MAXIMUM HEIGHT FOR GRAVEL FILTER BERMS USED INSIDE THE ERRANT VEHICLE RECOVERY AREA IS 6 INCHES.

BERM MATERIAL MUST BE 100% PASSING 2" SCREEN AND 10% MAXIMUM PASSING NO. 4 SIEVE. BERM MATERIAL MAY BE PITRUN OR CRUSHED AGGREGATE.

GRAVEL FILTER BERMS ARE USED FOR SHEET OR CONCENTRATED FLOWS TO REDUCE RUNOFF VELOCITY, PROMOTE SEDIMENT RETENTION AND ALLOW SETTLING. APPLICATIONS INCLUDE DITCH SEDIMENT TRAPS, INLET/OUTLET PROTECTION, AND BARRIER EXTENDS TO SUCH AN EXTENT THAT END CUTTING IS PREVENTED. POSITION THE BARRIER TO PREVENT SEDIMENT FROM ENTERING DRAINAGE. DO NOT PLACE THE BARRIER ACROSS THE DRAINAGE. GRAVEL FILTER BERMS ARE NOT TO BE USED TO PREVENT FLOODING. SEDIMENT TRAP SECTION FOR DITCH SEDIMENT RETENTION. REMOVE SEDIMENT FROM BEHIND THE BERM WHEN IT ACCUMULATES TO ONE HALF (1/2) THE ORIGINAL HEIGHT UNLESS ITS DRAINAGE AREA HAS BEEN STABILIZED.



DETAILED DRAWING  
REFERENCE DWG. NO.  
STANDARD SPEC. 208-45  
SECTION 208

GRAVEL FILTER BERM  
(R-03)

EFFECTIVE AUGUST 1996

INDIANA  
DIVISION OF TRANSPORTATION  
CADD

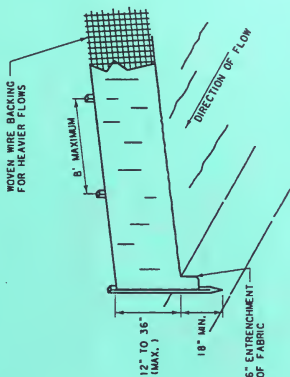
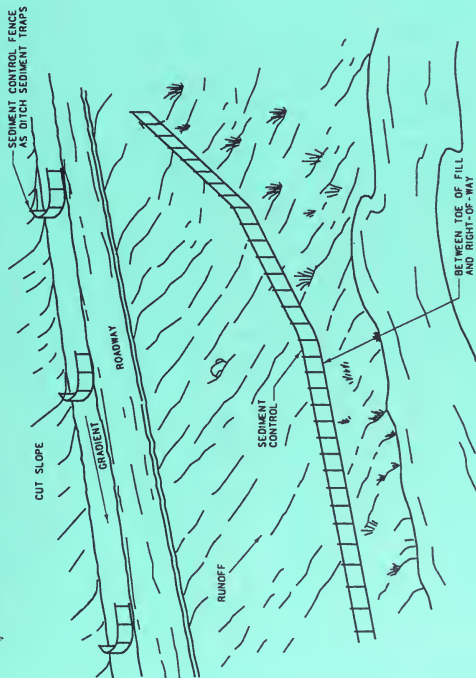
SYMBOL: ———— SCF ————

SEDIMENT CONTROL FENCE BMP R-04

SEDIMENT CONTROL FENCE (SCF) IS A SINGLE OR SERIES OF FILTER FABRIC STRIPS ATTACHED TO SUPPORTING POSTS. THE FENCE BOTTOM IS ENTRENCHED.

SEDIMENT CONTROL FENCES ARE USED FOR SHEET OR CONCENTRATED FLOWS TO ASSIST SEDIMENT CONTROL BY RETAINING SOME OF THE FLOODED SOIL PARTICLES AND SLOWING THE RUNOFF VELOCITY TO ALLOW PARTICLE SETTLING. APPLICATIONS INCLUDE DITCH SEDIMENT TRAPS, WATER RESOURCE PROTECTION, EROSION CONTROL, CHANNEL CHANGES, AND INSTALL SEDIMENT CONTROL FENCES PRIOR TO DISTURBING AREAS REQUIRING THIS BMP OR AS SLOPE GRADES ARE ACHIEVED. SEDIMENT CONTROL FENCE IS 2' HIGH BY 2 INCH (NOMINAL) WOODEN STAKES.

SEDIMENT CONTROL FENCES ARE USED BETWEEN THE EDGE OF CONSTRUCTION AND THE ADJACENT PROPERTY OR ROAD TO PREVENT FLOW FROM SPILLING THE ENDS OF THE FENCE CURVE UPSTREAM TO PREVENT FLOW FROM ENTERING THE DRAINAGE. DO NOT PLACE THE BARRIER ACROSS LIVE STREAMS. WOVEN WIRE BACKING IS NECESSARY WHEN DEALING WITH HEAVY FLOW VELOCITIES AND SEDIMENTATES OR AS A ROCK BARRIER. SEDIMENT BEHIND FENCE SHOULD BE REMOVED PRIOR TO CONSTRUCTION. WHEN IT ACCUMULATES TO ONE THIRD (1/3) THE ORIGINAL HEIGHT, PRIOR TO REMOVAL, SEDIMENT DEPOSITS WILL BE EITHER GRADED AND SEED OR REMOVED.



SILT FENCE CONSTRUCTION

DITCH SEDIMENT TRAPS & PROTECTION OF LIVE STREAM

DETAILED DRAWING	DWG. NO.
REFERENCE	208-50
SECTION 208	
SEDIMENT CONTROL FENCE	
(R-04)	
EFFECTIVE AUGUST 1995	
DESIGNED BY	WORTHAM
CHECKED BY	WORTHAM
APPROVED BY	WORTHAM

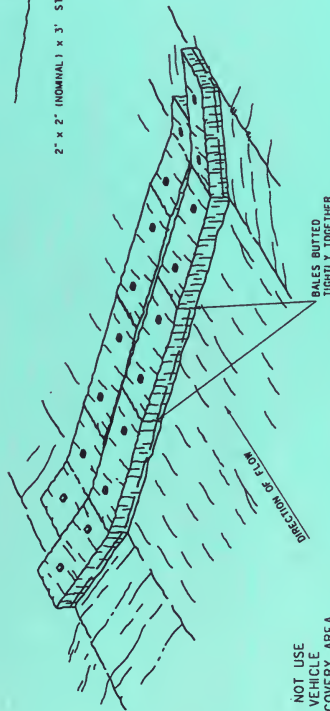
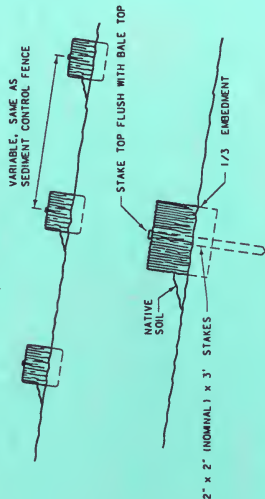
SYMBOL 1 ———— 588 ————

STRAW BALE BARRIER BMP R-051

STRAW BALE BARRIER (588) IS A SEDIMENT BARRIER CONSISTING OF ENTRENCHED, OVERLAPPING, AND ANCHORED STRAW BALES TO REDUCE RUNOFF VELOCITIES AND RETAIN SEDIMENT. DO NOT USE STRAW BALE BARRIERS INSIDE THE ERRANT VEHICLE RECOVERY AREA. STRAW BALES MUST BE CERTIFIED WEED-FREE.

STRAW BALE BARRIERS ARE USED FOR SHEET OR CONCENTRATED FLOWS TO REDUCE RUNOFF VELOCITY, PROMOTE SEDIMENT RETENTION AND ALLOW SETTLING. ENTRENCH THE BARRIER APPROXIMATELY ONE-THIRD (1/3) OF THE BALE'S HEIGHT AND BACKFILL ON THE UPHILL SIDE. USE 2 INCH BY 2 INCH (NOMINAL) BY 3 FOOT LONG WOODEN STAKES. DO NOT USE METAL STAKES. USE A MINIMUM OF TWO (2) STAKES PER BALE.

AS A DITCH SEDIMENT TRAP, EXTEND THE END OF THE BARRIER TO SUCH AN EXTENT THAT THE BOTTOMS OF THE END BALES ARE HIGHER THAN THE TOPS OF THE LOWEST CENTER BALES. POSITION THE BARRIER TO PREVENT SEDIMENT FROM ENTERING THE DRAINAGE. DO NOT PLACE THE BARRIER ACROSS LIVE STREAMS. REPAIR OR REPLACE DAMAGED, UNDER-CUT, OR END RUN BALES. APPLICATIONS INCLUDE (OUTSIDE THE ERRANT VEHICLE RECOVERY AREA) DITCH SEDIMENT TRAPS, INLET/OUTLET PROTECTION, BANK PROTECTION AND TOE OF SLOPE PROTECTION.



DO NOT USE  
IN VEHICLE  
RECOVERY AREA.

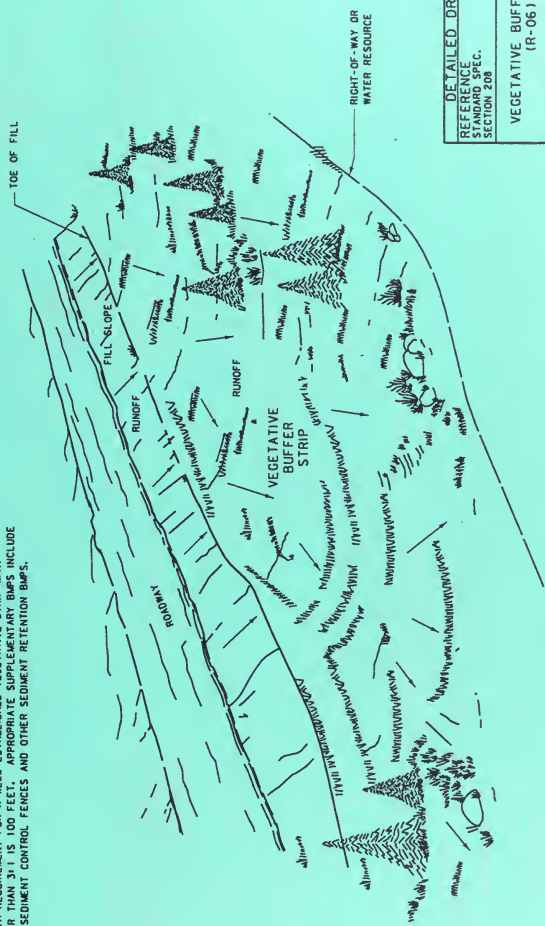
DETAILED DRAWING	DWG. NO.
REFERENCE	208-55
SECTION 908	
STRAW BALE BARRIER (R-051)	
EFFECTIVE/AUGUST 1995	
WYOMING DEPARTMENT OF TRANSPORTATION	

SYMBOL: 

VEGETATIVE BUFFER STRIP BMP R-06i

VEGETATIVE BUFFER STRIP (VBS) IS AN UNDISTURBED AREA OR STRIP OF ESTABLISHED VEGETATION, NATURAL OR PLANTED, LOCATED BETWEEN A SOURCE OF POLLUTANTS AND A RECEIVING WATER BODY. THE VBS PROVIDES A LIVING SEDIMENT FILTER TO REDUCE RUNOFF VELOCITIES AND ALLOW CAPTURE AND SETTLING OF COARSE-GRAINED SEDIMENT. VEGETATIVE BUFFER STRIPS REDUCE OR PREVENT SEDIMENTATION FROM LEAVING THE RIGHT-OF-WAY.

IDENTIFY VEGETATIVE BUFFER STRIPS WITH FLAGGING BEFORE CONSTRUCTION OCCURS. KEEP EQUIPMENT AND FILL MATERIAL OFF VEGETATIVE BUFFER STRIPS. ADVISE NEARBY PROPERTY OWNERS OF THE BUFFER STRIP. VEGETATIVE BUFFER STRIPS ARE ADJACENT TO OR NEAR DISTURBANCES AND REQUIRE PROTECTION. THE MINIMUM WIDTH REQUIREMENT FOR A WELL ESTABLISHED VEGETATIVE STRIP WITH A SLOPE OF 3:1 OR FLATTER IS 50 FEET. THE MINIMUM WIDTH REQUIREMENT FOR A WELL ESTABLISHED VEGETATIVE STRIP WITH A SLOPE STEEPER THAN 3:1 IS 100 FEET. APPROPRIATE SUPPLEMENTARY BMPs INCLUDE GRAVEL BERMS, SEDIMENT CONTROL FENCES AND OTHER SEDIMENT RETENTION BMPs.



DETAILED DRAWING	REFERENCE
DWG. NO. 208-60	STANDARD SPEC. SECTION 208
VEGETATIVE BUFFER STRIP (R-06)	
EFFECTIVE AUGUST 1986	
INDIANA DEPARTMENT OF TRANSPORTATION	



**RUNOFF INTERCEPTION DITCHES BMP R-07i**

0.5' APPROX. FREEBOARD

TOE OF FILL SLOPE

1 FOOT APPROX.

VARIABLE

INTERCEPTION DITCH

ROADWAY

FILL SLOPE

RIGHT-OF-WAY

INTERCEPTION DITCH AT RIGHT-OF-WAY

RUNOFF

INTERCEPTION DITCH AT TOE OF FILL

SEDIMENT RETENTION BMP

NOTE: LOCATE RUNOFF INTERCEPTION DITCH TO AVOID INTERFERENCE WITH CONSTRUCTION.

DETAILED DRAWING  
DWG. NO. 208-6  
REFERENCE STANDARD SPEC. SECTION 208  
RUNOFF INTERCEPTION DITCH (R-07)  
EFFECTIVE AUGUST 1996

NOTE: LOCATE RUNOFF INTERCEPTION DITCH TO AVOID INTERFERENCE WITH CONSTRUCTION.

**MT** MONTANA DEPARTMENT  
OF TRANSPORTATION  
CADD

**DETAILED DRAWING**  
DWG. NO.  
208-65  
REFERENCE  
STANDARD SPEC.  
SECTION 208

**RUNOFF INTERCEPTION DITCH**  
(R-07)

EFFECTIVE: AUGUST 1996



SYMBOL :

1/0

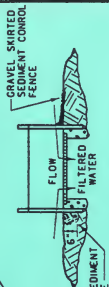
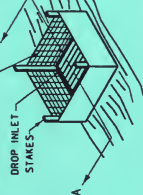
INLET/OUTLET PROTECTION BMP R-08:

INLET/OUTLET PROTECTION (1/0) ARE STRUCTURES ASSOCIATED WITH SEDIMENT REMOVAL. THEY ALLOW STORM WATERS OF INTERMITTENT DRAINAGES TO FLOW THROUGH DISTURBED AREAS WITH MINIMAL IMPACT DURING STORM EVENTS AND TO KEEP SEDIMENT FROM LEAVING LOT PROPERTY.

INLET/OUTLET PROTECTION IS USED AT CULVERT INSTALLATIONS THAT DISCHARGE DIRECTLY INTO A WATER RESOURCE OR CULTURAL RESOURCES. IT CAN BE USED ON STOCK UNDERPASSES OR APPROACH CULVERTS.

SEDIMENT CONTROL  
FENCE (TYPE 1) SEE DT  
DWG. NO. 208-50  
FOR INSTALLATION

DROP INLET PROTECTION



SECTION A-A

CULVERT IN A SWALE

INTERMITTENT FLOW AND  
CONSTRUCTION SEASON  
TERMINATION/WINTER SUSPENSION

CULVERT INSTALLATION  
WITH INTERMITTENT FLOW

INSTALL PROTECTION NEAR OR  
UPSTREAM OF CULVERT TO PREVENT  
SEDIMENT FROM ENTERING WATER

SEDIMENT CONTROL FENCE  
(OR GRAVEL FILTER BERM)

RIGHT-OF-WAY LINE

TEMPORARY DAM

TOE OF FILL

TOE OF FILL

PERMANENT CULVERT

TEMPORARY DIVERSION CHANNEL

CHANNEL LINERS  
EROSION CONTROL BLANKET,  
ROCK, GEOTEXTILE FABRIC

DETAILED DRAWING  
REFERENCE  
STANDARD SPEC.  
SECTION 208  
DWG. NO. 208-70  
PIPE INLET/OUTLET  
PROTECTION  
(R-08)  
EFFECTIVE AUGUST 1995

MONTANA DEPARTMENT OF TRANSPORTATION  
CALDWELL

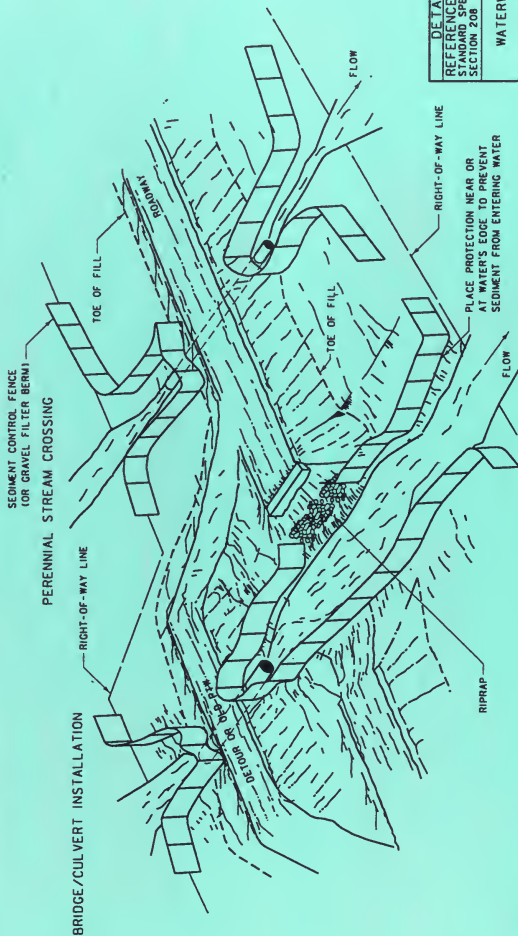
SYMBOL:

WP

WATERWAY PROTECTION BMP W-011

WATERWAY PROTECTION (WP) IS AN EROSION CONTROL FOR CONSTRUCTION ACTIVITIES CROSSING WATER RESOURCES. WATERWAY PROTECTION APPLIES TO PERENNIAL STREAM CROSSINGS, INTERMITTENT STREAM CROSSINGS, CULVERTS, AND OTHER WATERWAY SYSTEMS OR OTHER IMPACTS TO WATER RESOURCES FROM BRIDGE CONSTRUCTION OR CULVERT INSTALLATION.

APPROPRIATE BMP'S INCLUDE EROSION MAT, GRAVEL FILTER BERM, SEDIMENT CONTROL FENCE, STRAW BALE BARRIER OR VEGETATIVE BUFFER STRIP. ADDITIONAL BMP'S INCLUDE SLOPE REINFORCEMENT, RUN-ON OVERFLOW/CONTROL, DITCH SEDIMENT TRAP, SLOPE PROTECTION, AND SLOPE STABILIZATION. THIS LIST OF BMP'S IS NOT COMPREHENSIVE AND DOES NOT SUPERSEDE ANY STANDARD SPECIFICATIONS OR MANUALLY AND REQUIREMENTS SPECIFIED BY OTHER AUTHORIZED STATE AND FEDERAL AGENCIES.



DETAILED DRAWING	DWG. NO.
REFERENCE	208-75
STANDARD SPEC.	SECTION 208
WATERWAY PROTECTION	(W-01)
EFFECTIVE AUGUST 1996	
MTA	MONTANA DEPARTMENT OF TRANSPORTATION

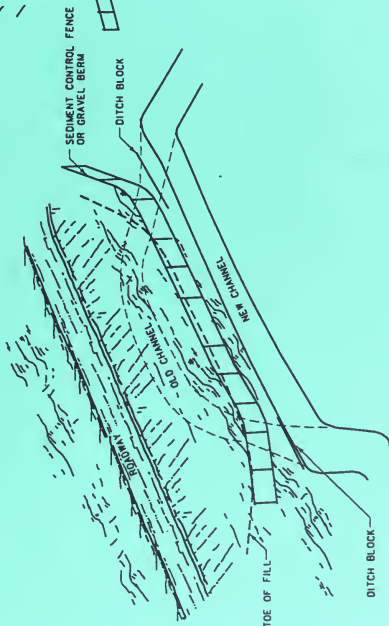
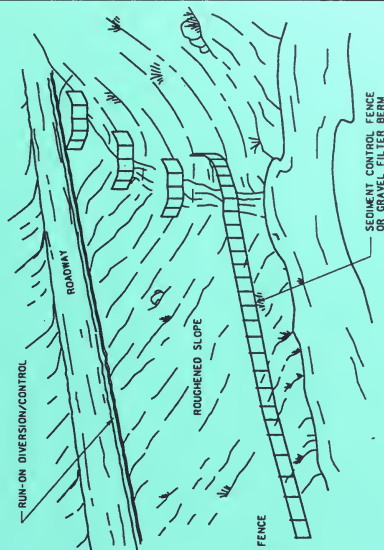


SYMBOL: 1

WATER RESOURCE PROTECTION BMP W-021

WATER RESOURCE PROTECTION (WRP) IS EROSION CONTROL FOR CONSTRUCTION ACTIVITIES THAT MAY CAUSE WATER RESOURCE DAMAGE. WRP MAY BE APPLIED TO PERMANENT, TEMPORARY, OR INTERMITTENT WATER RESOURCES, INCLUDING STREAMS, RIVERS, CREEKS, CHANNELS, STAGNANT BODIES OF WATER, AND OTHER WATER RESOURCES. WRP IS A NECESSARY COMPONENT OF EROSION CONTROL FROM ROAD CONSTRUCTION. IT CAN BE USED FOR CRITICAL RESOURCES, THE PROTECTION OF WHICH IS REQUIRED BY FEDERAL, STATE, OR LOCAL RESOURCE PROTECTION WITH IT.

APPROPRIATE BMPs INCLUDE EROSION MAT, GRAVEL FILTER BERM, SEDIMENT CONTROL FENCE, STRAW BALE BARRIER OR VEGETATIVE BUFFER STRIP. ADDITIONAL BMPs INCLUDE SLOPE ROUGHENING, RUN-ON DIVERSION/CONTROL, DITCH SEDIMENT TRAP, DUGOUT DITCH BASINS, AND RUMPLED INTERCEPTION DITCH. BMPs SHOULD BE DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH STANDARD SPECIFICATIONS OR ORDINANCES AND REQUIREMENTS SPECIFIED BY OTHER AUTHORIZED STATE AND FEDERAL AGENCIES.

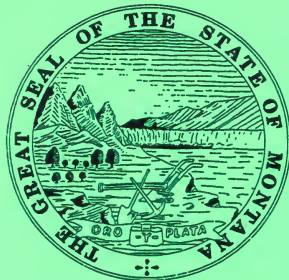


DETAILED DRAWING	DWG. NO.
REFERENCE	208-80
STANDARD SPEC.	SECTION 208
WATER RESOURCE PROTECTION (W-02)	
EFFECTIVE AUGUST 1996	
MTA	MONTANA DEPARTMENT OF TRANSPORTATION





MDT attempts to provide reasonable accommodations for any known disability that may interfere with a person participating in any service, program or activity of the Department. Alternative accessible formats of this document will be provided upon request.



300 copies of this Public Document were published at an estimated cost of \$2.61 per copy for a total cost of \$782.28, which includes \$728.28 for printing and \$0.00 for distribution.